

- I. EXECUTIVE ORDERS**
 - KBB 07-13 Re-Establishment of Louisiana Rebirth Panel..... 963
 - KBB 07-14 Homeland Security and Emergency Preparedness Advisory Council—Rescinds KBB 04-36
and KBB 05-01 964
- II. POLICY AND PROCEDURE MEMORANDA**
 - Governor**
 - Division of Administration, Office of State Travel—General Travel—PPM 49 (LAC 4:V.Chapter 15) 966
- III. EMERGENCY RULES**
 - Agriculture and Forestry**
 - Office of Agriculture and Environmental Sciences—Seed Commission—Contaminated Seed Stock and
Other Propagating Stock (LAC 7:XIII.Chapter 3) 969
 - Health and Hospitals**
 - Office of the Secretary, Bureau of Health Services Financing—Hospital Services—Inpatient Hospitals
Disproportionate Share Hospital Payment Methodologies (LAC 50:V.Chapter 3)..... 970
 - Nursing Facilities—Evacuation and Temporary Sheltering Costs (LAC 50:VII.1319) 976
 - Nursing Facility Minimum Licensing Standards—Emergency Preparedness (LAC 48:I.9729) 977
 - Office of the Secretary, Office for Citizens with Developmental Disabilities—Home and Community
Based Services Waivers—New Opportunities Waiver—Emergency Opportunities
(LAC 50:XXI.13707) 981
 - Home and Community-Based Services Waivers—Supports Waiver—Support Coordination Services
(LAC 50:XXI.5715, 5901 and 6101) 981
 - Targeted Case Management—Individuals with Developmental Disabilities
(LAC 50:XV.10501, 10505 and 11701) 982
 - Public Safety and Corrections**
 - State Uniform Construction Code Council—State Uniform Construction Code (LAC 55:VI.301) 983
 - Social Services**
 - Military Family Assistance Board—Military Family Assistance (LAC 67:III.Chapters 59-67) 984
 - Wildlife and Fisheries**
 - Wildlife and Fisheries Commission—Commercial Deepwater Grouper Closure 988
- IV. RULES**
 - Agriculture and Forestry**
 - Office of Agriculture and Environmental Sciences, Seed Commission—Contaminated Seed Stock
Cheniere Rice (LAC 7:XIII.Chapter 3)..... 990
 - Education**
 - Board of Elementary and Secondary Education—Bulletin 118—Statewide Assessment Standards and
Practices—Integrated LEAP and Assessment of Special Populations
(LAC 28:CXI.1709-1729, 3306, and 3307) 991
 - Environmental Quality**
 - Office of the Secretary, Legal Affairs Division—Control of Emissions of Sulfur Dioxide
(LAC 33:III.1502, 1503, 1507, 1511, and 1513)(AQ271) 1010
 - Expedited Permit Processing Program (LAC 33:I.1801, 1803, 1805, 1807, and 1809)(OS073) 1013
 - Murphy Exploration and Production Delisting (LAC 33:V.4999)(HW096P) 1015
 - National Source Tracking System (LAC 33:XV.102, 361, and 399)(RP044ft) 1016
 - Solid Waste Regulations Reorganization (LAC 33:VII.Chapters 1-30)(SW037)..... 1017
 - Governor**
 - Division of Administration—PPO, EPO, and MCO Plans of Benefits—Lifetime Maximum Benefit
(LAC 32:III:701, V:701, IX:701) 1122

This public document was published at a total cost of \$3,825.00. Five hundred copies of this public document were published in this monthly printing at a cost of \$3,825.00. The total cost of all printings of this document including reprints is \$3,825.00. This document was published by Moran Printing, Inc. 5425 Florida Boulevard, Baton Rouge, LA 70806, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 981-999. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

The Office of the State Register provides auxiliary aids for the *Louisiana Register* for visually impaired individuals. By appointment, oral presentation of the *Register* is available at the Office of the State Register, or an audiocassette tape of requested sections of the *Register* can be provided for the cost incurred by the Office of the State Register in producing such a tape. For more information contact the Office of the State Register.

Health and Hospitals

Board of Nursing—Faculty and Faculty Organization (LAC 46:XLVII.3515)	1123
Board of Pharmacy—Pharmacy Practice (LAC 46:LIII.Chapters 3-25).....	1124
Office of the Secretary—Community and Family Support System—Cash Subsidy (LAC 48:I.Chapter 161)	1135
Office of the Secretary, Bureau of Health Services Financing— Early and Periodic Screening, Diagnosis and Treatment—Dental Program—Reimbursement Rate Increase (LAC 50:XV.6901, 6903 and 6905)	1138
CommunityCARE Program—Immunization Pay-for-Performance Initiative (LAC 50:I.2915).....	1139

Public Safety and Corrections

Liquefied Petroleum Gas Commission—General Requirements (LAC 55:IX.Chapters 1 and 15)	1139
---	------

Social Services

Office of the Secretary—Community and Family Support System—Cash Subsidy (LAC 48:I.Chapter 161)	1135
Rehabilitation Services—State Personal Assistance Services Program (LAC 67:VII.Chapter 11).....	1145

Treasury

Board of Trustees of the Louisiana State Employees' Retirement System—Domestic Relations Orders (LAC 58:I.4131)	1150
Newly Elected Trustees (LAC 58:I.301 and 501)	1151
Board of Trustees of the Teacher's Retirement System—Monthly Salaries and Contributions Report (LAC 58:III.101).....	1151

Wildlife and Fisheries

Wildlife and Fisheries Commission—Bird Dog Training Areas (LAC 76:V.321)	1151
Possession of Exotics (LAC 76:V.115).....	1152
Reef Fish (LAC 76:VII.335).....	1156

V. NOTICES OF INTENT

Education

Board of Elementary and Secondary Education—Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.603, 613, and 4313)	1158
Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:CXI. 305, 2012-2029, and 3507)	1160
Bulletin 124—Supplemental Educational Services (LAC 28:CXXXV.Chapter 1).....	1171
Bulletin 741—Louisiana Handbook for School Administrators (LAC 28:CXV.Chapter 23)	1178
Bulletin 741—Louisiana Handbook for School Administration—Distance Education (LAC 28:CXV.2395)	1180
Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.Chapters 11, 12, 13, and 14)	1182
Bulletin 1566—Pupil Progression Policies and Procedures (LAC 28:XXXIX.101, 103, 501-505, 707, 901, 905-911, 1101, 1301, and 1501).....	1191
Bulletin 1794—State Textbook Adoption Policy and Procedure Manual (LAC 28:XXXIII.507 and 701).....	1196
Board of Regents—Proprietary Schools (LAC 28:III.Chapters 1-21)	1198

Environmental Quality

Office of the Secretary, Legal Affairs Division—2006 Incorporation by Reference for Air Quality (LAC 33:III.507, 2160, 3003, 5116, 5122, 5311, and 5901)(AQ284ft).....	1208
Use or Disposal of Sewage Sludge and Biosolids (LAC 33:VII.301 and IX.107, 2301, 2313, 7301, 7303, 7305, 7307, 7309, 7311, 7313, 7395, 7397, and 7399)(OS066).....	1211
USTs Delivery Prohibition (LAC 33:XI.401 and 403)(UT015).....	1265

Health and Hospitals

Board of Practical Nurse Examiners—Curriculum Requirements (LAC 46:XLVII.927, 929, 931, and 933).....	1267
Faculty (LAC 46:XLVII.901)	1269
Board of Social Work Examiners—Social Work (LAC 46:XXV.Chapters 1-7).....	1270
Office of the Secretary, Bureau of Health Services Financing—Early and Periodic Screening, Diagnosis and Treatment—Personal Care Services—Personal Care Workers Wage Enhancement (LAC 50:XV.7321).....	1276
Intermediate Care Facilities for the Mentally Retarded—Direct Service Professionals—Wage Enhancement (LAC 50:VII.32903).....	1277
Nursing Facilities—Direct Support Professionals—Wage Enhancement (LAC 50:VII.1305)	1278

Insurance

Citizens Property Insurance Corporation—Regulation 87—Louisiana Citizens Property Insurance Corporation—Producer Binding Requirements (LAC 37:XIII.Chapter 121)	1279
--	------

Public Safety and Corrections

Gaming Control Board—Progressive Electronic Gaming Devices (LAC 42:VII.4204, IX.4204, and XIII.4204)....	1284
State Uniform Construction Code—State Uniform Construction Code (LAC 55:VI.301).....	1285

Revenue

Policy Services Division—Returns and Payment of Tax; Penalty for Absorption of Tax (LAC 61:I.4351).....	1286
---	------

Social Services

Office of Family Support—Electronic Benefits Transfer—Methods of Issuing Benefits Electronically (LAC 67:III.401-409 and 901).....	1287
TANF—Adjustment of Child Support Orders (LAC 67:III.2512)	1290

State Department

Elections Division—Election Expense Reimbursement (LAC 31:I.Chapter 7) 1291
Election Night Transmission of Results (LAC 31:I.Chapter 5)..... 1292
Procurement of Voting System Drayage and Storage (LAC 31:III.Chapter 1)..... 1294
Recognition of Political Parties (LAC 31:I.Chapter 9)..... 1298
Registrars of Voters (LAC 31:II.Chapter 1) 1300

VI. POTPOURRI

Environmental Quality

Office of the Secretary—LDEQ Construction Advisory Document 1304
Office of the Secretary, Legal Affairs Division—Duty to Establish Remediation Plans Procedures 1304
New and Revised Air Permit Application Forms 1304
St. James Parish Ozone Maintenance Plan 1305

Health and Hospitals

Board of Examiners for Speech-Language Pathology and Audiology—Public Hearing—Substantive
Change to Notice of Intent (LAC 46:LXXV.512) 1306
Office of Public Health, Maternal and Child Health Section—MCH Block Grant Federal Funding 1306

Natural Resources

Office of Conservation—Orphaned Oilfield Sites 1307
Office of the Secretary, Fishermen's Gear Compensation Fund—Underwater Obstructions 1307

Wildlife and Fisheries

Wildlife and Fisheries Commission—White Lake Wetlands Conservation Area 1307

VII. INDEX 1308

Executive Orders

EXECUTIVE ORDER KBB 07-13

Re-Establishment of Louisiana Rebirth Panel

WHEREAS, Executive Order No. KBB 2006-8, issued February 16, 2006, created the Louisiana Rebirth Panel within the Department of Culture, Recreation and Tourism (hereafter "Department"), to establish an accountability review panel and/or a third-party performance and financial audit function (hereafter "Panel") that will design and implement a system to safeguard the proper use of culture, recreation and tourism funds;

WHEREAS, in accordance with Section 10 of Executive Order No. KBB 2006-8, the Panel expired on February 17, 2007;

WHEREAS, the lieutenant governor has requested the reestablishment of this independent accountability review panel with limited modifications;

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

SECTION 1: The Louisiana Rebirth Accountability Panel (hereafter "Panel") is hereby reestablished within the Department of Culture, Recreation and Tourism;

SECTION 2: The duties of the Panel in the area of culture, recreation and tourism shall include, but are not limited to, the following:

A. Facilitate the achievements of the four (4) results specified in the plan:

1. Rebuild Louisiana to worldwide preeminence as a top tourist destination;
2. Make Louisiana's cultural economy the engine of economic and social rebirth;
3. Build better lives and livelihoods for all of Louisiana's people; and
4. Make Louisiana's recovery the standard for high performance, accountability, and ethical behavior.

B. Develop a work plan for the Panel;

C. Review all sources of funds to implement Louisiana Rebirth, including but not limited to, federal, state, and local funds, and funds from the Louisiana Cultural Economy Foundation;

D. Regularly review and report the results achieved from the expenditure of culture, recreation and tourism funds; and

E. Recommend changes in state legislation, procedures or practices to enhance the state as a top tourist destination.

SECTION 3: The Panel shall submit a written comprehensive report annually to the lieutenant governor, the president of the Louisiana State Senate, the speaker of the Louisiana House of Representatives, and the public at-large on the issues set forth in Section 2 of this Order.

SECTION 4:

A. The Panel shall be composed of nine (9) members who shall be appointed by and serve at the pleasure of the lieutenant governor, as follows:

1. One (1) representative with expertise in public accounting standards, exhibited by a relationship with the General Accounting Standards Board;

2. One (1) representative with broad expertise in administering performance systems and accounting standards associated with the Government Finance Officers Association;

3. One (1) current or former federal auditor;

4. One (1) representative of the Louisiana Recovery Authority;

5. One (1) private sector business leader from outside the state of Louisiana;

6. One (1) current or former state official from outside the state of Louisiana;

7. One (1) current or former city official from outside the state of Louisiana; and

8. Two (2) at-large members.

SECTION 5: No member of the Panel shall be an employee of any level of Louisiana government. For the purposes of this Order only, a board member of the Louisiana Recovery Authority shall not be considered an employee of any level of Louisiana government.

SECTION 6: The chair of the Panel shall be appointed by the Lt. Governor from the membership of the Panel. All other officers, if any, shall be elected by the membership of the Panel.

SECTION 7: The Panel shall meet at regularly scheduled meetings and at the call of the chair.

SECTION 8: A. Panel members shall not receive compensation or a per diem for their service on the Panel.

Panel members who are employees or elected public officials of the state of Louisiana or a political subdivision thereof may seek reimbursement of travel expenses from their agency or department in accordance with PPM 49.

SECTION 9: Support staff, facilities, and resources for the Panel shall be provided by the Department of Culture, Recreation and Tourism.

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

SECTION 11: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

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

Louisiana, at the Capitol, in the city of Baton Rouge, on this 31st day of May, 2007.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0706#055

EXECUTIVE ORDER KBB 07-14

Homeland Security and Emergency Preparedness
Advisory Council—Rescinds KBB 04-36 and KBB 05-01

WHEREAS, Executive Order No. KBB 2004-36, issued August 20, 2004, created the Homeland Security Advisory Council and Executive Order No. KBB 2005-01, issued January 4, 2005, expanded its membership;

WHEREAS, in an effort to broaden the scope of homeland security efforts in Louisiana, it is necessary to rescind the aforementioned Executive Orders and to establish a reconstituted and strengthened Homeland Security and Emergency Preparedness Advisory Council;

WHEREAS, Louisiana is the gateway to the nation's heartland, the home of critically important marine, rail and air transportation infrastructure and national energy assets; its geographic location renders it extremely vulnerable to loss of life and property from severe weather events and a focus for national security;

WHEREAS, the ability to protect the citizens of the state of Louisiana from all hazards of emergencies and disasters, depends, in part, upon the adequacy of state and local community emergency preparedness and response capabilities, training, exercises, and equipment; and

WHEREAS, in order to achieve effective and efficient emergency preparedness, response, and recovery capabilities and capacities for all hazards of emergencies and disasters and to protect the security of the homeland, the best interests of the citizens of the state of Louisiana would be served by creating an advisory council to coordinate Louisiana's efforts in these critical areas;

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

SECTION 1: The Homeland Security Advisory Council is hereby reconstituted as the Homeland Security and Emergency Preparedness Advisory Council (hereafter "Council") to be organized within the Governor's Office of Homeland Security and Emergency Preparedness, Office of the Governor.

SECTION 2: The duties of the Council shall include, but are not limited to, the following:

A. Enhancing the homeland security and emergency preparedness programs of the state of Louisiana by linking state and local government efforts, and leveraging education, industry, and private sector initiatives;

B. Recommending policy and endorsing initiatives within all fields of expertise related to homeland security and emergency preparedness;

C. Identifying homeland security and emergency preparedness grants, and recommending updates and improvements to the state's emergency preparedness and homeland security strategy consistent with national and state policy and technological advances and innovations;

D. Providing a process for analyzing the state's assets and responding to opportunities;

E. Supporting national homeland security, emergency preparedness and defense objectives; and

F. Notifying and informing the governor, the state legislature and Louisiana's congressional delegation on all hazard initiatives requiring congressional action.

SECTION 3: On or before December 1, 2008, and each December 1 thereafter, the Council shall submit a written report to the governor, the president of the Senate and the speaker of the House of Representatives regarding the duties set forth in Section 2 above.

SECTION 4: The Council shall be composed of the following ten (10) members:

A. Director of the Governor's Office of Homeland Security and Emergency Preparedness, or the director's designee;

B. Adjutant general of the Louisiana National Guard, or the adjutant general's designee;

C. Chair of the Senate Select Committee on Homeland Security, or the chair's designee;

D. Chair of the House Special Committee on Louisiana Homeland Security, or the chair's designee;

E. Secretary of the Department of Health and Hospitals, or the secretary's designee;

F. Superintendent of the Louisiana State Police, or the superintendent's designee;

G. Secretary of the Department of Social Services, or the secretary's designee;

H. Secretary of the Department of Transportation and Development, or the secretary's designee;

I. Secretary of the Department of Wildlife and Fisheries, or the secretary's designee;

J. Attorney general of Louisiana, or the attorney general's designee;

SECTION 5: The director of the Governor's Office of Homeland Security and Emergency Preparedness or the director's designee shall serve as chair of the Council.

SECTION 6: The Council shall also be composed of subcommittees that will report to and be governed by the Council. Council members shall serve as ex-officio members of each subcommittee. The duties of the subcommittees shall include, but are not limited to, the following:

A. Providing advice on various fields of subject matter expertise, consistent with the direction of the Council; and

B. Making recommendations on homeland security and all hazards emergency preparedness challenges, threats and opportunities that effect Louisiana.

SECTION 7: The Council shall meet not later than June 30, 2007, and thereafter at regularly scheduled intervals, and at the call of the chair.

SECTION 8: Support staff, facilities, and resources for the Council shall be provided by the Governor's Office of Homeland Security and Emergency Preparedness.

SECTION 9:

A. Council members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Council.

B. Council members who are employees or elected public officials of the state of Louisiana or a political subdivision thereof may seek reimbursement of travel expenses from their agency or department in accordance with PPM 49.

C. Council members who are also members of the Louisiana Legislature may seek a per diem from the Senate or House of Representatives, as appropriate, for their attendance.

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

SECTION 11: Executive Order No. KBB 2004-36 issued August 20, 2004, and Executive Order No. KBB

2005-01, issued January 4, 2005, are hereby terminated and rescinded.

SECTION 12: This Order is effective upon signature and shall continue in effect until amended, modified, terminated or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 31st day of May, 2007.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0706#056

Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDA

Office of the Governor
Division of Administration
Office of State Travel

General Travel—PPM 49
(LAC 4:V.Chapter 15)

The following shows the amended text in PPM 49. This supersedes all prior issues of PPM 49 published in the Louisiana Register. This revised PPM 49 also supersedes and replaces PPM 49 which had been designated as LAC 4:V.Chapter 15.

Title 4

ADMINISTRATION

Part V. Policy and Procedure Memoranda

Chapter 15. General Travel Regulations—PPM Number 49

§1501. Authorization and Legal Basis

A. In accordance with the authority vested in the Commissioner of Administration by Section 231 of Title 39 of the Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950-968 as amended, notice is hereby given of the revision of Policy and Procedures Memorandum No. 49, the state general travel regulations, effective July 1, 2007. These amendments are both technical and substantive in nature and are intended to clarify certain portions of the previous regulations or provide for more efficient administration of travel policies. These regulations apply to all state departments, boards and commissions created by the legislature or executive order and operating from funds appropriated, dedicated, or self-sustaining; federal funds; or funds generated from any other source.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004), LR 31:1183 (June 2005), LR 32:938 (June 2006), LR 33:966 (June 2007).

§1502. Definitions

A. For the purposes of this PPM, the following words have the meaning indicated.

* * *

Controlled Billed Account (CBA)—credit account issued in an agency's name (no plastic card issued). These accounts are direct liabilities of the State and are paid by each agency. CBA accounts are controlled through an authorized approver (s) to provide a means to purchase airfare and registration only. Each department head determines the extent of the account's use.

* * *

Suburb—an immediate or adjacent location (overflow of the city) to the higher cost areas which would be within approximately 30 miles of the highest cost area.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004), LR 31:1183 (June 2005), LR 32:938 (June 2006), LR 33:966 (June 2007).

§1503. General Specifications

A. - A.2. ...

3. Contracted Travel Services. The state has contracted for travel agency services which use is mandatory for airfares unless exemptions have been granted by the Division of Administration prior to purchasing airfare tickets. The State also encourages the use of the contracted travel agency to make reservations for hotel and vehicle accommodations, but hotel and vehicles are not a mandatory requirement.

A.4 - B.3. ...

4. CBA (Controlled Billed Account) issued in an agency's name is to be used for airfare and registration. Other Credit Cards issued in the name of the state agency are not to be used for the purpose of securing transportation, lodging, meals, or telephone and telegraph service, unless prior written permission has been obtained from the Commissioner of Administration.

B.5. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1253 (June 2000), LR 27:803 (June 2001), LR 28:1126 (June 2002), LR 29:823 (June 2003), LR 30:1112 (June 2004), LR 31:1184 (June 2005), LR 33:966 (June 2007).

§1504. Methods of Transportation

A. - B.1.a. ...

b. Reimbursement for use of a chartered or unchartered privately-owned aircraft under the above guidelines will be made on the following basis:

i. at the rate of 1.07 cents per mile; or

ii. at the lesser of state contract rate or coach economy airfare.

If there are extenuating circumstances requiring reimbursement for other than listed above, approval must be granted by the Commissioner of Administration.

c. ...

2. Commercial Airlines (Receipt Required) All state travelers are to purchase commercial airline tickets through the state contracted travel agency. This requirement is mandatory unless approval is granted from the State Travel Office. (In the event a traveler seeks approval to go outside the travel agency, they shall submit their request through their agency travel program administrator, who will determine if the request should be submitted to the Office of State Travel.) While the use of the contract travel agency is mandatory, the state traveler has options for the type of airfare ticket purchased. The state always supports purchasing the "best cost" ticket. When requesting information from a state travel agent, a traveler should request the travel agent quote both the state contract airfare price (if available) and the lowest-logical airfare available. Price is a factor, but also other circumstances for each trip should be taken into consideration. The primary difference in a state contract ticket and a lowest-logical ticket is that the state contract ticket is totally refundable and in most cases the lowest-logical ticket is not refundable. Also, the price of a state contract ticket is firm as long as there is a seat available on the plane. A state traveler must ask the question: Is there a likely-hood, my itinerary could change or be cancelled? Based on the response to this question, one should evaluate cost and risk to determine the "best cost" ticket. Another factor to assist having a travel agent search the lowest fare is being able to advise the agent if you are flexible in either your dates or time of travel. By informing the travel agent of your "window of time" for your departure and return will assist them to search for the best price.

B.2.a - C.2.b. ...

b. A mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while conducting official state business. Mileage shall be reimbursable on the basis of 44 cents per mile.

c. - e. ...

f. Reimbursements will be allowed on the basis of 44 cents per mile to travel between a common carrier/terminal and the employee's point of departure, i.e., home, office, etc., whichever is appropriate and in the best interest of the state.

g. When the use of a privately-owned vehicle has been approved by the department head for out-of-state travel for the traveler's convenience, the traveler will be reimbursed for in-route expenses on the basis of 44 cents per mile only. The total cost of the mileage may not exceed the cost of travel by using the lesser of state contract airfare or lowest logical airfare obtained at least 14 days prior to the trip departure date. The traveler is personally responsible for any other expenses in-route to and from destination which is inclusive of meals and lodging. If a traveler, at the request of the department, is asked to take their personally owned vehicle out-of-state for a purpose that will benefit the agency, then the department head may on a case-by-case basis determine to pay a traveler for all/part of in-route travel expenses. File should be justified accordingly.

C.2.h. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR

1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1254 (June 2000), LR 27:804 (June 2001), LR 28:1127 (June 2002), LR 29:824 (June 2003), LR 30:1113 (June 2004), LR 31:1185 (June 2005), LR 32:938 (June 2006), LR 33:966 (June 2007).

§1506. Lodging and Meals

A. - A. 5. ...

B. Exceptions

1. Lodging and Meal Overage Allowances—(Receipts required). Department Head or his/her designee will have the authority to approve actual meal provisions and routine and conference lodging provisions on a case by case basis not to exceed twenty-five percent over PPM49 current listed rates. In areas where the Governor has declared an emergency, a Department Head or his/her designee will have the authority to approve actual routine and conference lodging provisions on a case by case basis not to exceed seventy-five percent over PPM-49 current listed rates. Each case must be fully documented as to necessity (e.g. proximity to meeting place) and cost effectiveness of alternative options. Documentation must be readily available in the department's travel reimbursement files.

2. Actual Expenses for State Officers—(Receipts or other supporting documents are required for each item claimed). State officers and others so authorized by statute (See Definitions under Authorized Persons) or individual exception will be reimbursed on an actual expenses basis for meals and lodging except in cases where other provisions for reimbursement have been made by statute. Request shall not be extravagant and will be reasonable in relationship to the purpose of travel. State officers entitled to actual expense reimbursements are only exempted from meals and lodging rates; they are subject to the time frames and all other requirements as listed in the travel regulations.

C. Meals and Lodging Allowances

1. Meal Allowance—Includes Tax and Tips. Receipts are not required for routine meals within these allowances. Number of meals claimed must be shown on travel voucher. For meals rates, the inclusion of suburbs (see definition of suburb) shall be determined by the department head on a case-by-case basis. See tier pricing below. Partial meals such as continental breakfasts or airline meals are not considered meals. If meals of state officials on actual exceed these allowances, receipts are required.

2. - 4. ...

Tier I

Breakfast	\$ 7
Lunch	\$10
Dinner	\$14
	\$31

<u>LODGING:</u>	<u>Routine Lodging</u>	<u>Conference Lodging</u>
In-State Cities (except as listed)	\$60	\$70
Baton Rouge-EBR (April 1-June 30)	\$80	\$90
Baton Rouge-EBR (July 1-March 31)	\$94	\$104
Covington/Slidell-St. Tammany (April 1-Aug 31)	\$70	\$80

Covington/Slidell-St. Tammany (Sept 1-March 31)	\$95	\$105
Lake Charles-Calcasieu	\$71	\$81
Shreveport-Caddo/Bossier	\$70	\$80
Lafayette (Oct 1-March 29)	\$60	\$70

Tier II

Breakfast	\$ 8
Lunch	\$12
Dinner	\$17
	\$37

LODGING:

	<u>Routine Lodging</u>	<u>Conference Lodging</u>
New Orleans-Orleans, St. Bernard, Jefferson and Plaquemines Parishes (October 1-May 31)	\$140	\$150-State Sponsored \$170-Non-State Sponsored
New Orleans-Orleans, St. Bernard, Jefferson and Plaquemines Parishes (June 1-September 30)	\$110	\$120-State Sponsored \$140-Non-State Sponsored
Out-Of-State (Except Cities Listed in Tier III & IV)	\$75	\$140

Tier III

Breakfast	\$10
Lunch	\$14
Dinner	\$21
	\$45

LODGING:

	<u>Routine Lodging</u>	<u>Conference Lodging</u>
Atlanta, GA, Cleveland, OH, Dallas/Fort Worth, TX, Denver, CO, Detroit, MI, Ft. Lauderdale, FL, Hartford, CT, Houston, TX, Kansas City, MO, Las Vegas, NV, Los Angeles, CA, Miami, FL, Minneapolis/St. Paul, MN, Nashville, TN, Oakland, CA., Orlando, FL, Philadelphia, PA, Phoenix, AZ, Pittsburgh, PA, Portland, ME, Portland, OR, San Antonio, TX, San Diego, CA, St. Louis, MO, Tampa, FL, Wilmington, DE., all of Alaska or Hawaii, Puerto Rico, Virgin Islands, American Samoa, Guam	\$105	\$140

Tier IV

Breakfast	\$11
Lunch	\$15
Dinner	\$25
	\$51

LODGING:

	<u>Routine Lodging</u>	<u>Conference Lodging</u>
Baltimore, MD; San Francisco, CA; Seattle, WA	\$155	\$155
Alexandria, VA; Boston, MA; New York City, NY; Washington DC	\$200	\$200
Chicago, IL and International Cities	\$180	\$180

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1256 (June 2000), LR 27:807 (June 2001), repromulgated LR 27:1495 (September 2001), LR 28:1130 (June 2002), LR 30:1116 (June 2004), LR 31:1189 (June 2005), LR 32:939 (June 2006), LR 33:967 (June 2007).

\$1507. Parking and Related Parking Expenses

A. ...

B. Parking at the New Orleans Airport. The state's current contract rate is \$6.00 per day and \$36.00 weekly at Park 'N Fly (no receipts required). Documentation required to receive the contract price is your agency issued photo ID, a business card, state issued corporate card or a travel itinerary issued by the state contracted travel agency designating the employee is on "official state business." At the agency discretion an employee may be paid actual expenses up to \$8 per day with a receipt.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1257 (June 2000), LR 27:808 (June 2001), repromulgated LR 27:1496 (September 2001), repromulgated LR 27:1496 September 2001, LR 28:1130 (June 2002), LR 30:1117 (June 2004), LR 31:1190 (June 2005), LR 33:968 (June 2007).

Jerry Luke LeBlanc
Commissioner

0706#072

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences
Seed Commission

Contaminated Seed Stock and Other Propagating Stock
(LAC 7:XIII.Chapter 3)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 3:1433, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rules and regulations governing the sale, distribution and planting of contaminated seed stock, in particular, Cheniere rice.

In August of 2006, the United States Department of Agriculture (USDA) announced that trace amounts of a genetically modified trait, LibertyLink 601 (LL traits) had been found in the U.S. rice supply. Foundation seed of Cheniere rice produced in 2003 has been found to have LL traits. The announcement also indicated that based on the scientific data reviewed, the USDA and the U. S. Food and Drug Administration concluded that no human health, food safety, or environmental concerns were associated with this genetically modified rice. The rice industry in Louisiana contributes over \$250,000,000 to Louisiana's economy through the sale of rice.

Following that announcement, the rice market has experienced turmoil because of the uncertainty of being able to market such rice, despite the conclusions regarding human health, food safety and environmental concerns. Some rice importing countries have expressed concerns about genetically modified rice. The European Union has stated that the countries in the union will not buy rice contaminated with LL traits. It is vital that Louisiana's rice industry maintain the European Union as a market for Louisiana rice. Further it is necessary to forestall any embargo of rice that comes from Louisiana by other rice importing countries.

Maintaining markets for Louisiana rice is vital to both Louisiana's rice industry and to Louisiana's overall economy. The embargo by the European Union and the treat of an embargo by other rice importing countries created an imminent peril to the welfare of the citizens of Louisiana and to Louisiana's economy. The Seed Commission has determined that limiting the sale, distribution and planting of seeds of Cheniere rice and other varieties of rice that test positive for LL traits will best serve Louisiana's rice industry. This Emergency Rules is enabled by R.S. 3:1433.

This Emergency Rule becomes effective upon signature, May 23, 2007, and will remain in effect for 120 days.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 3. Contaminated Seed Stock and Other Propagating Stock

§301. Planting of Cheniere Rice and Other Varieties with LL Traits

A. The following seeds may not be sold, offered for sale, or planted in Louisiana as seed for purposes of producing a new plant, except as otherwise provided by this Chapter:

1. the Cheniere variety of rice;
2. any portion of any variety of rice that tests positive, according to tolerances established by the department, for LL traits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:

§303. Planting of Breeder, Foundation or Registered Cheniere Rice Seed Stock

A. Breeder, Foundation or Registered Cheniere rice seed may be sold, offered for sale or planted in Louisiana only for the purpose of seed stock increase, subject to the sampling and testing requirements set out in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:

§305. Planting of Breeder, Foundation or Registered Rice Seed of Other Varieties Stock

A. Breeder, Foundation or Registered seed of other varieties of rice where the variety as a whole is found to test positive, according to tolerances established by the department, for LL traits may be sold, offered for sale or planted in Louisiana only for the purpose of seed stock increase, subject to the sampling and testing requirements set out in this Chapter.

B. If a portion of a variety of rice, other than Cheniere rice, is found to test positive for LL traits according to tolerances established by the department, but there is no need to declare the variety as a whole to be contaminated with LL traits then the variety may continue to be planted in Louisiana. However, the portion found to test positive shall be placed under a "stop-sale" order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:

§307. Sampling of Rice Seed for the Detection of LL Traits

A. Samples of all breeder, foundation, registered and certified rice seed shall be taken by the Louisiana Department of Agriculture and Forestry (department) for testing. The department shall conduct the testing or cause the testing to be done in laboratories approved by the department. The department shall determine the method and manner of sampling and the number of samples that are needed.

B. Each sample must test negative for LL traits according to tolerances established by the department.

C. All costs incurred by the department in regard to sampling, including but not limited to the taking, transportation, testing, and disposal of samples, shall be paid by the person or entity requesting the sampling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:

§309. Stop-Sale

A. If any lot of breeder, foundation, registered or certified rice seed that are subject to the requirements of this Chapter tests positive for LL traits according to tolerances established by the department then such seed shall be placed under a "stop-sale" order and moved, handled or disposed of only with the express permission of the commissioner or his designate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:

Bob Odom
Commissioner

0706#001

DECLARATION OF EMERGENCY

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

Hospital Services—Inpatient Hospitals
Disproportionate Share Hospital Payment Methodologies
(LAC 50:V.Chapter 3)

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated an Emergency Rule to repeal and replace all Rules governing disproportionate share hospital payment methodologies (*Louisiana Register*, Volume 31, Number 6). In compliance with Act 182 and Act 323 of the 2005 Regular

Session, the June 20, 2005 Emergency Rule was amended to establish provisions for provider fees levied on hospitals as a result of the Healthcare Affordability Act (*Louisiana Register*, Volume 31, Number 7) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 31, Number 9). The June 20, 2005 Rule was subsequently amended to incorporate the provisions of the July 1, 2005 and September 1, 2005 Emergency Rules (*Louisiana Register*, Volume 31, Number 10).

The October 25, 2005 Emergency Rule was amended to: 1) change the provisions governing DSH payments to other uninsured hospitals; 2) establish provisions governing payments to private community hospitals for services rendered to displaced, uninsured citizens from mandatory evacuation parishes affected by Hurricanes Katrina and Rita; 3) change the provisions governing DSH payments to high uninsured hospitals and to establish provisions governing payments to public community hospitals (*Louisiana Register*, Volume 32, Number 7); and 4) revise the provisions governing disproportionate share hospital payments to non-rural community hospitals as a result of the allocation of additional funds by the Legislature during the 2006 Regular Session (*Louisiana Register*, Volume 32, Number 9). The department subsequently amended the October 25, 2005 Emergency Rule to incorporate the provisions of the June 28, 2006 and September 15, 2006 Emergency Rules (*Louisiana Register*, Volume 32, Number 10) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 33, Number 1). The department amended the October 23, 2006 Emergency Rule to incorporate the provisions of the December 18, 2006 Emergency Rule (*Louisiana Register*, Volume 33, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 21, 2007 Emergency Rule. This action is being taken to enhance federal revenue.

Effective June 22, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions, as contained in the February 21, 2007 Emergency Rule, governing disproportionate share hospital payment methodologies.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 3. Disproportionate Share Hospital Payment Methodologies

§301. General Provisions

A. The reimbursement methodology for inpatient hospital services incorporates a provision for an additional payment adjustment for hospitals serving a disproportionate share of low income patients.

B. The following provisions govern the disproportionate share hospital (DSH) payment methodologies for qualifying hospitals.

1. Total cumulative disproportionate share payments under any and all disproportionate share hospital payment methodologies shall not exceed the federal disproportionate share state allotment for Louisiana for each federal fiscal year or the state appropriation for disproportionate share payments for each state fiscal year. The department shall make necessary downward adjustments to hospital's disproportionate share payments to remain within the federal

disproportionate share allotment and the state disproportionate share appropriated amount.

2. Appropriate action including, but not limited to, deductions from DSH, Medicaid payments and cost report settlements shall be taken to recover any overpayments resulting from the use of erroneous data, or if it is determined upon audit that a hospital did not qualify.

3. DSH payments to a hospital determined under any of the methodologies described in this Chapter 3 shall not exceed the hospital's net uncompensated cost as defined in §§305-313 or the disproportionate share limits as defined in Section 1923(g)(1)(A) of the Social Security Act for the state fiscal year to which the payment is applicable. Any Medicaid profit shall be used to offset the cost of treating the uninsured in determining the hospital specific DHH limits.

4. Qualification is based on the hospital's latest filed cost report and related uncompensated cost data as required by the department. Qualification for small rural hospitals is based on the latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports and related uncompensated cost data will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments with the exception of public state-operated hospitals, even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

5. Hospitals shall be notified by letter at least 60 days in advance of calculation of DSH payment to submit documentation required to establish DSH qualification. Only hospitals that timely return DSH qualification documentation will be considered for DSH payments. The required documents are:

- a. obstetrical qualification criteria;
- b. low income utilization revenue calculation;
- c. Medicaid cost report; and
- d. uncompensated cost calculation.

6. Hospitals and/or units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments for the remainder of the current DSH pool payment cycle and thereafter.

C. A hospital receiving DSH payments shall furnish emergency and non-emergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

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

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

§303. Disproportionate Share Hospital Qualifications

A. In order to qualify as a disproportionate share hospital, a hospital must:

1. have at least two obstetricians who have staff privileges and who have agreed to provide obstetric services to individuals who are Medicaid eligible. In the case of a

hospital located in a rural area (i.e., an area outside of a metropolitan statistical area), the term *obstetrician* includes any physician who has staff privileges at the hospital to perform nonemergency obstetric procedures; or

2. treat inpatients who are predominantly individuals under 18 years of age; or

3. be a hospital which did not offer nonemergency obstetric services to the general population as of December 22, 1987; and

4. have a utilization rate in excess of one or more of the following specified minimum utilization rates:

a. Medicaid utilization rate is a fraction (expressed as a percentage). The numerator is the hospital's number of Medicaid (Title XIX) inpatient days. The denominator is the total number of the hospital's inpatient days for a cost reporting period. Inpatient days include newborn and psychiatric days and exclude swing bed and skilled nursing days. Hospitals shall be deemed disproportionate share providers if their Medicaid utilization rates are in excess of the mean, plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments; or

b. hospitals shall be deemed disproportionate share providers if their low-income utilization rates are in excess of 25 percent. Low-income utilization rate is the sum of:

i. the fraction (expressed as a percentage). The numerator is the sum (for the period) of the total Medicaid patient revenues plus the amount of the cash subsidies for patient services received directly from state and local governments. The denominator is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in the cost reporting period from the financial statements; and

ii. the fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period, less the portion of any cash subsidies as described in §303.A.4.b.i in the period which are reasonably attributable to inpatient hospital services. The denominator is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less than zero. This numerator shall not include contractual allowances and discounts (other than for indigent patients ineligible for Medicaid), i.e., reductions in charges given to other third-party payers, such as HMOs, Medicare, or Blue Cross; nor charges attributable to Hill-Burton obligations. A hospital providing "free care" must submit its criteria and procedures for identifying patients who qualify for free care to the Bureau of Health Services Financing for approval. The policy for free care must be posted prominently and all patients must be advised of the availability of free care and the procedures for applying. Hospitals not in compliance with free care criteria will be subject to recoupment of DSH and Medicaid payments; or

5. effective November 3, 1997, be a small rural hospital as defined in §311.A.2.a-h; or

6. effective June 28, 2006, be a public community hospital as defined in §305.A; or

7. effective June 28, 2006, be a private community hospital as defined in §307.A; or

8. effective September 15, 2006, be a non-rural community hospital as defined in §308.A; and

9. effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

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

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

§305. Public Community Hospitals

A. Definitions

Public Community Hospital—a hospital owned by a parish, city, or other local government instrumentality that does not qualify as a small rural hospital.

Uncompensated Care Costs—net uncompensated care cost is the total allowable cost of inpatient and outpatient hospital services less Medicare costs, Medicaid payments (excluding DSH payments), costs associated with patients who have insurance for services provided, private payer payments and all other inpatient and outpatient payments received from patients.

B. DSH payments to a public community hospital shall be calculated as follows.

1. Each qualifying public community hospital shall certify to the Department of Health and Hospitals its uncompensated care costs. The basis of the certification shall be 100 percent of the hospital's allowable costs for these services, as determined by the most recently filed Medicare/Medicaid cost report. The certification shall be submitted in a form satisfactory to the department each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital may be more or less than the federal share so claimed.

C. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid, other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Hospitals shall submit an attestation that patients whose care is included in the hospital's net uncompensated costs are not Medicaid eligible at the time of registration.

D. A hospital receiving DSH payments shall furnish emergency and nonemergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

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

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

§307. Private Community Hospitals

A. Definitions

Community Hospital—a private hospital that is not a small rural hospital which provided services to uninsured evacuees during the period February 1, 2006 through June 30, 2006.

Evacuee—a Louisiana citizen who resided in one of the mandatory evacuated parishes for Hurricane Katrina on August 24, 2005 or Hurricane Rita on September 23, 2005.

Mandatory Evacuated Parish or Area—a parish or a designated area of a parish for which a mandatory evacuation order was issued for Hurricane Katrina or Hurricane Rita. The parishes and designated areas include:

a. The mandatory evacuated parishes and designated areas for Hurricane Katrina include:

- i. Orleans Parish;
- ii. Jefferson Parish;
- iii. St. Bernard Parish;
- iv. Plaquemines Parish;
- v. Assumption Parish;
- vi. St. John Parish;
- vii. St. Charles Parish;
- viii. Lafourche Parish;
- ix. Terrebonne Parish;
- x. St. James Parish [south of Vacherie past LA Highway 20 and LA Highway 3127 and part of Paulina (Grand Point) past LA Highway 642 and LA Highway 3125, (zip codes 70090 and 70763)];

xi. St. Tammany Parish [all areas south of Interstate 12 including Slidell, Lacombe, Mandeville, and Covington, (zip codes 70458, 70461, 70445, 70471, 70448, 70447, 70433, and 70435)];

xii. Tangipahoa Parish [areas south of LA Highway 22 including Akers, Bedico & Lee's Landing, (zip codes 70454 and 70421)];

xiii. St. Mary Parish [Cypremont Point, (zip code 70538) and Burns (zip code 70522)]; and

xiv. Iberia Parish [areas south of LA Highway 90 and down LA Highway 14 including Delcambre, (zip codes 70560 and 70528)].

b. The mandatory evacuated parishes and designated areas for Hurricane Rita include:

- i. Calcasieu Parish;
- ii. Cameron Parish;
- iii. Jefferson Davis Parish;
- iv. Plaquemines Parish;
- v. Acadia Parish (areas south of LA Highway 92);
- vi. Jefferson Parish (Lafitte, Crown Point, Barataria and Grand Isle);
- vii. Iberia Parish (Delcambre and areas south of LA Highway 90);

viii. Lafourche Parish (south of Leon Theriot Floodgate and the lower portion of Pointe-Aux-Chenes);

ix. St. Mary Parish (all areas south of the Intercoastal Canal including Cypremont Point, Burns, Four Corners, and Louisa);

x. Terrebonne Parish (Grand Caillou/Dulac, Bayou du Large/Theriot, Pointe-Aux-Chenes and from the Montegut Fire Station south); and

xi. Vermilion Parish (south of LA Highway 14 between Cameron Parish line and LA Highway 335, south of La 335, below Kaplan and Abbeville; south of Jacqueline Street in Abbeville and back to LA Highway 14 [near Erath and Delcambre], and all mobile homes south of LA Highway 14).

Uncompensated Care Costs—net uncompensated care cost is the total allowable cost of inpatient and outpatient hospital services less Medicare costs, Medicaid payments (excluding DSH payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Uninsured—a person having no health insurance or sources of third party payment for services provided.

B. DSH payments to a private community hospital shall be calculated as follows.

1. Payment for allowable evacuee uninsured services shall be calculated by multiplying each qualifying hospital's allowable uninsured evacuee charges by its hospital specific cost-to-charge ratio as determined by the department. DSH payments to each qualifying community hospital shall not exceed the hospital specific net uncompensated care costs for the state fiscal year.

C. Hospitals shall submit supporting evacuee uninsured patient specific data for hospital services provided from February 1, 2006 through June 30, 2006 in a format specified by the department. The deadline for submission of all payment requests is October 18, 2006. Submitted uninsured patient data shall be subject to verification by the department before DSH payments are made.

D. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Hospitals shall submit an attestation that patients whose care is included in the hospital's net uncompensated costs are not Medicaid eligible at the time of registration.

E. Aggregate DSH payments for qualifying community hospitals shall be limited to the state DSH appropriated amount for community hospitals. In the event that aggregate allowable uninsured evacuee costs for community hospitals exceeds the state appropriated amount, each qualifying hospital's payment shall be calculated as follows:

1. dividing each hospital's uninsured evacuee cost by the total uninsured evacuee cost for all qualifying other community hospitals during the state fiscal year; and then

2. multiplying by the state DSH-appropriated amount for community hospitals.

F. A hospital receiving DSH payments shall furnish emergency and nonemergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

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

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

§308. Non-Rural Community Hospitals—SFY 2007

A. Definitions

Non-Rural Community Hospital—a non-state hospital that does not receive disproportionate share payments under any other qualification category. These hospitals may be either publicly or privately owned. In addition, psychiatric,

rehabilitation and long term hospitals may qualify for this category.

B. DSH payments to a public, non-rural community hospital shall be calculated as follows.

1. Each qualifying public, non-rural community hospital shall certify to the Department of Health and Hospitals its uncompensated care costs. The basis of the certification shall be 100 percent of the hospital's allowable costs for these services, as determined by the most recently filed Medicare/Medicaid cost report. The certification shall be submitted in a form satisfactory to the department no later than October 1st of each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital shall be in accordance with the qualifying criteria and payment methodology for non-rural community hospitals included in Act 17 and may be more or less than the federal share so claimed. Qualifying public, non-rural community hospitals that fail to make such certifications by October 1st may not receive Title XIX claim payments or any disproportionate share payments until the department receives the required certifications.

C. DSH payments to private, non-rural community hospitals located in Orleans, Jefferson, Calcasieu and Cameron Parishes shall be calculated as follows.

1. If the hospital's qualifying uninsured cost is less than 3.5 percent of total hospital cost, the payment shall be 30 percent of qualifying uninsured costs.

2. If the hospital's qualifying uninsured cost is equal to or greater than 3.5 percent of the total hospital cost but less than 6.5 percent of total hospital cost, the payment shall be 50 percent of qualifying uninsured cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 6.5 percent of total hospital cost but less than or equal to 8 percent of total hospital cost, the payment shall be 80 percent of qualifying uninsured cost.

4. If the hospital's qualifying uninsured cost is greater than 8 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess of 8 percent of total hospital cost and 80 percent of qualifying uninsured cost for the portion equal to 8 percent of total hospital cost.

D. DSH payments to private, non-rural community hospitals located in all other parishes shall be calculated as follows:

1. If the hospital's qualifying uninsured cost is less than 3.5 percent of total hospital cost, no payment shall be made.

2. If the hospital's qualifying uninsured cost is equal to or greater than 3.5 percent of total hospital cost but less than 6.5 percent of total hospital cost, the payment shall be 50 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 6.5 percent of total hospital cost but less than or equal to 8 percent of total hospital cost, the payment shall be 80 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

4. If the hospital's qualifying uninsured cost is greater than 8 percent of total hospital cost, the payment shall be 90

percent of qualifying uninsured cost for the portion in excess of 8 percent of total hospital cost and 80 percent of an amount equal to 4.5 percent of total hospital cost.

E. The department shall determine each qualifying hospital's uninsured percentage on a hospital-wide basis utilizing charges for dates of service from January 1, 2006 through June 30, 2006.

F. Hospitals shall submit supporting patient specific data in a format specified by the department. The deadline for submission of data used to determine qualification and the initial payment is October 31, 2006. The second payment to hospitals will be based on patient specific data for dates of service from July 1, 2006 through December 31, 2006. The deadline for submission of data used to calculate final payment is by March 31, 2007. Qualification for both payments is determined from the patient specific data for dates of services from January 1, 2006 through June 30, 2006.

1. Hospitals that were non-operational due to Hurricane Katrina and became operational between July 1, 2006 through December 31, 2006, the patient specific data during July 1, 2006 through December 31, 2006 will be used for qualification purposes.

2. Submitted hospital charge data must agree with the hospital's monthly revenue and usage reports which reconcile to the monthly and annual financial statements. The submitted data shall be subject to verification by the department before DSH payments are made.

G. In the event that the total payments calculated for all recipient hospitals are anticipated to exceed the total amount appropriated, the department shall reduce payments on a pro rata basis in order to achieve a total cost that is not in excess of the amounts appropriated for this purpose. The \$120,000,000 appropriation for the non-rural community hospital pool shall be effective only for state fiscal year 2007 and distributions from the pool shall be considered nonrecurring.

H. DSH payments shall be made as bi-annual lump sum payments.

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

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

§309. Federally Mandated Statutory Hospitals Not Included In Any Other Group

A. Definition

Federally Mandated Statutory Hospital Not Included In Any Other Group—a hospital that meets the federal DSH statutory utilization requirements in §303.A.4.a-b.ii and is not included in any other qualifying group.

B. DSH payments to individual federally mandated statutory hospitals shall be based on actual paid Medicaid days for a six-month period ending on the last day of the last month of that period, but reported at least 30 days preceding the date of payment. Annualization of days for the purposes of the Medicaid days pool is not permitted. The amount will be obtained by DHH from a report of paid Medicaid days by service date.

C. Disproportionate share payments for individual hospitals in this group shall be calculated based on the product of the ratio determined by:

1. dividing each qualifying hospital's actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by the department from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified hospitals included in this group. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days; then

2. multiplying by the state disproportionate share appropriated amount for this pool of hospitals.

D. A pro rata decrease necessitated by conditions specified in §301.B.1-6 for hospitals in this group will be calculated based on the ratio determined by:

1. dividing the hospitals' Medicaid days by the Medicaid days for all qualifying hospitals in this group; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

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

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

§311. Small Rural Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients. Any uncompensated costs of providing health care services in a rural health clinic licensed as part of a small rural hospital as defined below shall be considered outpatient hospital services in the calculation of uncompensated costs.

Small Rural Hospital—a hospital (excluding a long-term care hospital, rehabilitation hospital, or freestanding psychiatric hospital but including distinct part psychiatric units) that meets the following criteria:

a. had no more than 60 hospital beds as of July 1, 1994 and is located in a parish with a population of less than 50,000 or in a municipality with a population of less than 20,000; or

b. meets the qualifications of a sole community hospital under 42 CFR §412.92(a); or

i. met the qualifications of a sole community hospital as of June 30, 2005 and subsequently converts to critical access hospital status; or

c. had no more than 60 hospital beds as of July 1, 1999 and is located in a parish with a population of less than 17,000 as measured by the 1990 census; or

d. had no more than 60 hospital beds as of July 1, 1997 and is a publicly-owned and operated hospital that is located in either a parish with a population of less than 50,000 or a municipality with a population of less than 20,000; or

e. had no more than 60 hospital beds as of June 30, 2000 and is located in a municipality with a population, as measured by the 1990 census, of less than 20,000; or

f. had no more than 60 beds as of July 1, 1997 and is located in a parish with a population, as measured by the 1990 and 2000 census, of less than 50,000; or

g. was a hospital facility licensed by the department that had no more than 60 hospital beds as of July 1, 1994, which hospital facility:

i. has been in continuous operation since July 1, 1994;

ii. is currently operating under a license issued by the department; and

iii. is located in a parish with a population, as measured by the 1990 census, of less than 50,000; or

h. has no more than 60 hospital beds or has notified the department as of March 7, 2002 of its intent to reduce its number of hospital beds to no more than 60, and is located in a municipality with a population of less than 13,000 and in a parish with a population of less than 32,000 as measured by the 2000 census; or

i. has no more than 60 hospital beds or has notified DHH as of December 31, 2003 of its intent to reduce its number of hospital beds to no more than 60 and is located:

i. as measured by the 2000 census, in a municipality with a population of less than 7,000;

ii. as measured by the 2000 census, in a parish with a population of less than 53,000; and

iii. within 10 miles of a United States military base; or

j. has no more than 60 hospital beds as of September 26, 2002 and is located:

i. as measured by the 2000 census, in a municipality with a population of less than 10,000; and

ii. as measured by the 2000 census, in a parish with a population of less than 33,000; or

k. has no more than 60 hospital beds as of January 1, 2003 and is located:

i. as measured by the 2000 census, in a municipality with a population of less than 11,000; and

ii. as measured by the 2000 census, in a parish with a population of less than 90,000; or

l. has no more than 40 hospital beds as of January 1, 2005, and is located:

i. in a municipality with a population of less than 3,100; and

ii. in a parish with a population of less than 15,800 as measured by the 2000 census.

B. Payment based on uncompensated cost for qualifying small rural hospitals shall be in accordance with the following two pools.

1. *Public (Nonstate) Small Rural Hospitals*—small rural hospitals as defined in §311.A.2 which are owned by a local government.

2. *Private Small Rural Hospitals*—small rural hospitals as defined in §311.A.2 that are privately owned.

C. Payment to hospitals included in §311.B.1-2. is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for each pool. If the cost reporting period is not a full period (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

D. Pro Rata Decrease

1. A pro rata decrease necessitated by conditions specified in §301.B.1-6 for rural hospitals described in this §311 will be calculated using the ratio determined by:

a. dividing the qualifying rural hospital's uncompensated costs by the uncompensated costs for all rural hospitals in §311; then

b. multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state DSH appropriated amount.

2. No additional payments shall be made after the final payment is disbursed by the department for the state fiscal year. Recoupment shall be initiated upon completion of an audit if it is determined that the actual uncompensated care costs for the state fiscal year for which the payment is applicable is less than the actual amount paid.

E. Qualifying hospitals must meet the definition for a small rural hospital contained in §311.A.2. Qualifying hospitals must maintain a log documenting the provision of uninsured care as directed by the department.

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

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

§313. Public State-Operated Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Public State-Operated Hospital—a hospital that is owned or operated by the State of Louisiana.

B. DSH payments to individual public state-owned or operated hospitals shall be up to 100 percent of the hospital's net uncompensated costs. Final payment will be based on the uncompensated cost data per the audited cost report for the period(s) covering the state fiscal year.

C. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment, the department shall calculate a pro rata decrease for each public state-owned or operated hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public state-owned or operated hospitals during the state fiscal year; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment.

D. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Acute hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient

specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an attestation that patients whose care is included in the hospitals' net uncompensated cost are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

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

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

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

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

Frederick P. Cerise, M.D., M.P.H.
Secretary

0706#063

DECLARATION OF EMERGENCY

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

Nursing Facilities—Evacuation and Temporary Sheltering Costs (LAC 50:VII.1319)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:VII.1319 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule to establish a prospective payment system for nursing facilities based on recipient care needs that incorporates acuity measurements as determined under the Resource Utilization Group III (RUG III) resident classification methodology (*Louisiana Register*, Volume 28, Number 8). The August 20, 2002 Rule was subsequently amended to adopt provisions governing a quarterly adjustment of individual nursing facility rates based on overall case mix and allow for the offset of installation costs for automatic fire sprinkler systems and two-hour rated walls in Medicaid-

certified nursing facilities (*Louisiana Register*, Volume 32, Number 12).

Act 540 of the 2006 Regular Session of the Louisiana Legislature directed the department, in consultation with the Governor's Office of Homeland Security, to adopt provisions governing emergency preparedness requirements for nursing facilities, including facility-specific reimbursement for documented and allowable evacuation and temporary sheltering costs of a Medicaid-certified nursing facility. In compliance with the directives of Act 540, the department by Emergency Rule adopted provisions governing the reimbursement methodology for nursing facilities to provide for the facility-specific reimbursement of evacuation and temporary sheltering costs of Medicaid-certified nursing facilities (*Louisiana Register*, Volume 33, Number 3). This Emergency Rule is being promulgated to continue the provisions of the March 20, 2006 Emergency Rule. This action is being taken to prevent imminent peril to the health and well-being of nursing facility residents who may be evacuated as a result of disasters or other emergencies.

Effective March 20, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1319. Evacuation and Temporary Sheltering Costs

A. Nursing facilities required to participate in an evacuation, as directed by the appropriate parish or state official, or which act as a host shelter site may be entitled to reimbursement of its documented and allowable evacuation and temporary sheltering costs.

1. The expense incurred must be in excess of any existing or anticipated reimbursement from any other sources, including the Federal Emergency Management Agency (FEMA) or its successor.

2. Nursing facilities must first apply for evacuation or sheltering reimbursement from all other sources and request that the department apply for FEMA assistance on their behalf.

3. Nursing facilities must submit expense and reimbursement documentation directly related to the evacuation or temporary sheltering of Medicaid nursing home residents to the department.

B. Eligible Expenses. Expenses eligible for reimbursement must occur as a result of an evacuation and be reasonable, necessary, and proper. Eligible expenses are subject to audit at the department's discretion and may include the following:

1. Evacuation Expenses. Evacuation expenses include expenses from the date of evacuation to the date of arrival at a temporary shelter or another nursing facility. Evacuation expenses include:

a. resident transportation and lodging expenses during travel;

b. nursing staff expenses when accompanying residents, including:

- i. transportation;
- ii. lodging; and

iii. additional direct care expenses, when a direct care expense increase of 10 percent or more is documented.

(a). The direct care expense increase must be based on a comparison to the average of the previous two pay periods or other period comparisons determined acceptable by the department.

c. any additional allowable costs as defined in the CMS Publication 15-1 that are directly related to the evacuation and that would normally be allowed under the nursing facility case-mix rate.

2. Non-nursing Facility Temporary Sheltering Expenses. Non-nursing facility temporary sheltering expenses include expenses from the date the Medicaid residents arrive at a non-nursing facility temporary shelter to the date all Medicaid residents leave the shelter. A non-nursing facility temporary shelter includes shelters that are not part of a licensed nursing facility and are not billing for the residents under the Medicaid case-mix reimbursement system or any other Medicaid reimbursement system. Non-nursing facility temporary sheltering expenses may include:

a. additional nursing staff expenses including:

i. lodging; and

ii. additional direct care expenses, when a direct care expense increase of 10 percent or more is documented.

(a). The direct care expense increase must be based on a comparison to the average of the previous two pay periods or other period comparisons determined acceptable by the department.

b. care-related expenses as defined in the nursing facility case-mix rate system and incurred in excess of care-related expenses prior to the evacuation;

c. additional medically necessary equipment such as beds and portable ventilators that are not available from the evacuating nursing facility and are rented or purchased specifically for the temporary sheltered residents; and

i. these expenses will be capped at a daily rental fee not to exceed the total purchase price of the item;

ii. the allowable daily rental fee will be determined by the department;

d. any additional allowable costs as defined in the CMS Publication 15-1 that are directly related to the temporary sheltering and that would normally be allowed under the nursing facility case-mix rate.

3. Host Nursing Facility Temporary Sheltering Expenses. Host nursing facility temporary sheltering expenses include expenses from the date the Medicaid residents are admitted to a licensed nursing facility to the date all temporary sheltered Medicaid residents are discharged from the nursing facility, not to exceed a six-month period.

a. The host nursing facility shall bill for the residents under Medicaid's case-mix reimbursement system.

b. Additional direct care expenses may be submitted when a direct care expense increase of 10 percent or more is documented.

i. The direct care expense increase must be based on a comparison to the average of the previous two pay periods or other period comparisons determined acceptable by the department.

C. Payment of Eligible Expenses

1. For payment purposes, total eligible Medicaid expenses will be the sum of non resident-specific eligible

expenses multiplied by the facility's Medicaid occupancy percentage plus Medicaid resident-specific expenses.

a. If Medicaid occupancy is not easily verified using the evacuation resident listing, the Medicaid occupancy from the most recently filed cost report will be used.

2. Payments shall be made as quarterly lump-sum payments until all eligible expenses have been submitted and paid. Eligible expense documentation must be submitted to the department by the end of each calendar quarter.

3. All eligible expenses documented and allowed under §1319 will be removed from allowable expense when the nursing facility's Medicaid cost report is filed. These expenses will not be included in the allowable cost used to set case-mix reimbursement rates in future years.

a. Equipment purchases that are reimbursed on a rental rate under §1319.B.2.c may have their remaining basis included as allowable cost on future costs reports provided that the equipment is in the nursing facility and being used. If the remaining basis requires capitalization under CMS Publication 15-1 guidelines, then depreciation will be recognized.

4. Payments shall remain under the upper payment limit cap for nursing facilities.

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

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

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

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

Frederick P. Cerise, M.D., M.P.H.
Secretary

0706#064

DECLARATION OF EMERGENCY

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

Nursing Facility Minimum Licensing Standards
Emergency Preparedness
(LAC 48:I.9729)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 48:I.9729 as authorized by R.S. 36:254 and R.S. 40:2009.1-2116.4. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule to adopt minimum licensing standards for nursing homes (*Louisiana Register*, Volume 24, Number 1).

Act 540 of the 2006 Regular Session of the Louisiana Legislature directed the department, in consultation with the Governor's Office of Homeland Security, to adopt provisions governing emergency preparedness requirements for nursing facilities. In compliance with the directives of Act 540, the department amended the January 20, 1998 Rule to revise the provisions governing emergency preparedness requirements for nursing facilities (*Louisiana Register*, Volume 32, Number 12). The department now proposes to amend the December 20, 2006 Rule to further revise and clarify the provisions governing emergency preparedness requirements for nursing facilities.

This action is being taken to prevent imminent peril to the health and well-being of Louisiana citizens who are residents of nursing facilities that may be evacuated as a result of declared disasters or other emergencies. It is anticipated that the implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2006-2007.

Effective June 10, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing emergency preparedness requirements for nursing facilities.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 97. Nursing Homes

Subchapter B. Organization and General Services

§9729. Emergency Preparedness

A. The nursing facility shall have an emergency preparedness plan which conforms to the Louisiana Model Nursing Home Emergency Plan and these regulations. The plan shall be designed to manage the consequences of declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its approved emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

1. Upon the department's request, a nursing facility shall forward its emergency preparedness information and documentation for review.

a. Emergency preparedness information and documentation shall, at a minimum, include:

- i. a copy of the nursing facility's emergency preparedness plan;
- ii. updates, amendments, modifications or changes to the nursing facility's emergency preparedness plan;
- iii. the number of operational beds; and
- iv. census information, including transportation requirements for residents.

2. After reviewing the nursing facility's plan, if the department determines that the plan is not viable or does not promote the health, safety and welfare of nursing facility residents, the facility shall, within 10 days of notification,

respond with an acceptable plan of correction to amend its emergency preparedness plan.

B. The emergency preparedness plan shall be individualized and site specific. At a minimum, the nursing facility shall have a written emergency preparedness plan that addresses:

1. the nursing facility's procedures and criteria for determining if they should evacuate the facility or shelter in place:

a. for evacuation determinations, the nursing facility's plan shall provide for a primary sheltering host site(s) and alternative sheltering host sites outside the area of risk. These host sites must be verified by written agreements or contracts;

b. if the state or parish Office of Homeland Security and Emergency Preparedness (OHSEP) has ordered a mandatory evacuation of the parish or area in which the nursing facility is located, the facility shall evacuate unless the facility receives a written exemption from the ordering authority;

c. the nursing facility shall provide a plan for monitoring weather warnings and watches and evacuation orders from local and state emergency preparedness officials;

2. the delivery of essential care and services to residents, whether the residents are housed in the nursing facility, at an off-site location, or when additional residents are housed in the nursing facility during an emergency;

3. the provisions for the management of staff, including provisions for adequate, qualified staff as well as provisions for distribution and assignment of responsibilities and functions, either within the nursing facility or at another location;

4. an executable plan for coordinating transportation services, that shall be air-conditioned when available, required for evacuating residents to another location, including the following:

a. a triage system for residents requiring specialized transportation and medical needs; and

b. a written binding transportation agreement(s) for evacuating residents to a safe location; or

c. a written plan for using transportation equipment owned by, or at the disposal of, the facility;

5. the procedures to notify the resident's family or responsible representative whether the facility is sheltering in place or evacuating. If the facility evacuates, notification shall include:

a. the date and approximate time that the facility is evacuating;

b. the place or location to which the nursing facility is evacuating, including the:

i. name;

ii. address; and

iii. telephone number;

c. a telephone number that the family or responsible representative may call for information regarding the facility's evacuation;

6. the procedure or method whereby each nursing facility resident has a manner of identification attached to his person which remains with him at all times in the event of sheltering in place or evacuation;

7. the procedure or method whereby each nursing facility resident has the following minimum information included with him during all phases of an evacuation:

- a. current and active diagnosis;
- b. medications, including dosage and times administered;
- c. allergies;
- d. special dietary needs or restrictions; and
- e. next of kin, including contact information;

8. the procedure for ensuring that an adequate supply of the following items accompany residents on buses or other transportation during all phases of evacuation:

- a. water;
- b. food;
- c. nutritional supplies and supplements;
- d. medication; and
- e. other necessary supplies.

9. the procedures for ensuring that licensed nursing staff accompany residents on buses or other transportation during all phases of evacuation;

10. staffing patterns for sheltering in place and for evacuation, including contact information for such staff;

11. a plan for sheltering in place if the nursing facility determines that sheltering is appropriate;

a. If the nursing facility shelters in place, the facility's plan shall include provisions for seven days of necessary supplies on hand to include:

- i. drinking water, a minimum of one gallon per day per person;
- ii. water for sanitation;
- iii. non-perishable food, including special diets;
- iv. medications;
- v. medical supplies;
- vi. personal hygiene supplies; and
- vii. sanitary supplies;

b. a posted communications plan for contacting emergency services and monitoring emergency broadcasts. The communication plan shall include:

- i. the type of equipment;
- ii. back-up equipment;
- iii. the equipment's testing schedule; and
- iv. the power supply for the equipment being used;

and

c. generator capabilities to include:

- i. HVAC system;
- ii. sewerage system;
- iii. water system;
- iv. medical equipment;
- v. refrigeration;
- vi. lights;
- vii. communications; and
- viii. a plan for a seven day supply of fuel; and

12. the nursing facilities subject to the provisions of R.S. 40:2009.25(A) shall have conducted a risk assessment of their facility to determine facility integrity in determining whether sheltering in place is appropriate. The assessment shall be reviewed and updated annually. The risk assessment shall include the following:

- a. the facility's latitude and longitude;
- b. flood zone determination, using the nursing facility's latitude and longitude;

c. elevations of the building(s), HVAC system(s), generator(s), fuel storage, electrical service and sewer motor, if applicable;

d. a building evaluation to include:

- i. the construction type;
- ii. roof type;
- iii. windows and shutters;
- iv. wind load; and
- v. interior safe zones;

e. an evaluation of each generator's fuel source(s), including refueling plans, output of the generator(s) and electrical load of required emergency equipment;

f. an evaluation of surroundings, including lay-down hazards and hazardous materials, such as:

- i. trees;
- ii. towers;
- iii. storage tanks;
- iv. other buildings; and
- v. pipe lines;

g. an evaluation of security for emergency supplies;

h. Sea, Lake and Overland Surge from Hurricanes (SLOSH) Modeling using the Maximum's of the Maximum Envelope of Waters (MOM); and

i. floor plans, of the building being used as the facility's shelter site, that indicate:

- i. the areas being used as shelter or safe zones;
- ii. emergency supply storage areas;
- iii. emergency power outlets;
- iv. communications center;
- v. posted emergency information; and
- vi. pre-designated command post.

C. Emergency Plan Activation, Review and Summary

1. The nursing facility's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The facility's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if indicated by the nursing facility's performance during the emergency event or the planned drill.

2. Nursing facilities subject to the provisions of R.S. 40:2009.25(B) shall submit a summary of the updated plan to the Department's Nursing Facility Emergency Preparedness Manager by March 1 of each year. If changes are made during the year, a summary of the amended plan shall be submitted within 30 days of the modification.

D. The nursing facility's plan shall be submitted to the OHSEP. Any recommendations by the OHSEP regarding the nursing facility's plan shall be documented and addressed by the facility.

E. ...

F. Evacuation, Temporary Relocation or Temporary Cessation

1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the state or parish OHSEP, due to a declared disaster or other emergency, and that nursing facility sustains damages due to wind, flooding or experiences power outages for longer than 48 hours, the nursing facility shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Bureau of

Health Services Financing, Health Standards Section, and the facility has received a letter of approval from the department for reopening the facility.

a. The purpose of these surveys is to assure that the facility is in compliance with the licensing standards including, but not limited to, the structural soundness of the building, the sanitation code, staffing requirements and the execution of emergency plans.

b. The Health Standards Section, in coordination with state and parish OHSEP, will determine the facility's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services and necessary supplies.

c. The Health Standards Section will give priority to reopening surveys.

2. If a nursing facility evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the state or parish OHSEP, due to a declared disaster or other emergency, and the nursing facility does not sustain damages due to wind, flooding or experiences power outages for longer than 48 hours, the nursing facility may be reopened without the necessity of the required surveys. Prior to reopening, the nursing facility shall notify the Health Standards Section in writing that the facility is reopening.

G. Authority to Reopen and Execution of Emergency Preparedness Plan

1. Before reopening at its licensed location, the nursing facility shall submit a written initial summary within 14 days from the date of evacuation to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

a. - d. ...

e. a list of all injuries and deaths of residents that occurred during the execution of the plan, evacuation and temporary relocation including the date, time, causes and circumstances of the injuries and deaths.

2. A more detailed report shall be submitted upon request by the licensing agency.

2.a. - c. Repealed.

H. Sheltering in Place

1. If a nursing facility shelters in place at its licensed location during a declared disaster or other emergency, the nursing facility shall submit a written initial summary within 14 days from the date of the emergency event to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths.

2. A more detailed report shall be submitted upon request by the licensing agency.

I. Unlicensed Sheltering Sites

1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operations at its licensed location due to an evacuation order issued by the state or parish OHSEP, the nursing facility shall be allowed to remain at an unlicensed sheltering site for a maximum of five days. A nursing facility may request one extension, not to exceed five days, to remain at the unlicensed sheltering site.

a. The request shall be submitted in writing to the Health Standards Section and shall be based upon information that the nursing facility's residents will return to its licensed location, or be placed in alternate licensed nursing home beds within the extension period requested.

b. The extension will be granted for good cause shown and for circumstances beyond the control of the nursing facility.

c. This extension will be granted only if essential care and services to residents are ensured at the current sheltering facility.

2. Upon expiration of the five days or upon expiration of the written extension granted to the nursing facility, all residents shall be relocated to a licensed nursing facility and the Health Standards Section and OHSEP shall be informed of the residents' new location(s).

J. Notification

1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operations at its licensed location as a result of an evacuation order issued by the state or parish OHSEP, the nursing facility must immediately give notice to the Health Standards Section and OHSEP by facsimile or email of the following:

a. the date and approximate time of the evacuation;

b. the sheltering host site(s) to which the nursing facility is evacuating; and

c. a list of residents being evacuated, which shall indicate the evacuation site for each resident.

2. Within 48 hours, the nursing facility must notify the Health Standards Section and OHSEP of any deviations from the intended sheltering host site(s) and must provide the Health Standards Section and OHSEP with a list of all residents and their locations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:49 (January 1998), amended LR 32:2261 (December 2006), LR 33:

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

Frederick P. Cerise, M.D., M.P.H.
Secretary

0706#031

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Home and Community Based Services Waivers
New Opportunities Waiver—Emergency Opportunities
(LAC 50:XXI.13707)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities proposes to amend LAC 50:XXI.13707 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:95(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Appropriations Bill of the 2004 Regular Session of the Legislature allocated funds for the establishment of 66 emergency slots for the New Opportunities Waiver (NOW) program and mandated the development and enforcement of rules established under the Administrative Procedure Act to create an equitable and precise methodology for defining an emergency and the issuance of such slots. The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities promulgated an Emergency Rule that established the provisions governing emergency waiver opportunities. In addition, the bureau repealed the rules governing programmatic allocation of MR/DD Waiver slots and adopted those provisions to govern the programmatic allocation of waiver opportunities for NOW (*Louisiana Register*, Volume 30, Number 8). Subsequently, the bureau amended the August 20, 2004 Rule to clarify the provisions governing allocation of waiver opportunities for persons transitioning from publicly operated to private ICF-MR facilities (*Louisiana Register*, Volume 31, Number 11). The department by Emergency Rule amended the provisions of the November 20, 2005 Rule to create an additional 100 emergency waiver opportunities (*Louisiana Register*, Volume 33, Number 3). This Emergency Rule is being promulgated to continue the provisions of the March 1, 2007 Emergency Rule.

This action is being taken to promote the health and welfare of those individuals with developmental disabilities by facilitating access to waiver services.

Effective June 29, 2007, the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amends the provisions governing the programmatic allocation of waiver opportunities in the New Opportunities Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

Subpart 11. New Opportunities Waiver

Chapter 137. General Provisions

§13707. Programmatic Allocation of Waiver Opportunities

A. - C.6. ...

7. One hundred and sixty-six waiver opportunities shall be used for qualifying individuals with developmental

disabilities who require emergency waiver services. In the event that a waiver opportunity is vacated, the opportunity will be returned to the emergency pool for support planning based on the process for prioritization. Once the 166 waiver opportunities are filled, then supports and services based on the priority determination system will be identified and addressed through other resources currently available for individuals with developmental disabilities.

C.8. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 31:2900 (November 2005), amended LR 33:

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0706#062

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Supports Waiver—Support Coordination Services
(LAC 50:XXI.5715, 5901 and 6101)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities adopts LAC 50:XXI.5715 and amends §§5901 and 6101 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities implemented a new home and community-based services waiver, called the supports waiver, to promote the independence of individuals with developmental disabilities by creating vocational and community inclusion options to enhance their lives (*Louisiana Register*, Volume 32, Number 9).

Waiver recipients currently receive support coordination for the supports waiver through targeted case management services provided under the Medicaid State Plan and paid from all state general funds, pending approval of the associated Medicaid State Plan amendment. The department now proposes to amend the September 20, 2006 Rule governing the services covered in the supports waiver to include support coordination as a covered service.

This action is being taken to secure enhanced federal funding and eliminate the reliance on state general funds for support coordination services provided to supports waiver recipients. It is estimated that implementation of this Emergency Rule will increase expenditures in the Supports Waiver Program by approximately \$69,797 for state fiscal year 2006-2007.

Effective June 20, 2007, the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amends the provisions governing the Supports Waiver to establish support coordination as a covered service.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services
Waivers

Subpart 5. Supports Waiver

Chapter 57. Covered Services

§5715. Support Coordination

A. Support Coordination is a service that will assist recipients in gaining access to all of their necessary services, as well as medical, social, educational and other services, regardless of the funding source for the services. Support coordinators shall be responsible for on-going monitoring of the provision of services included in the recipient's approved CPOC.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

Chapter 59. Provider Participation

§5901. General Provisions

A. - C.5. ...

6. Support Coordination. Providers must be licensed as support coordination agencies and enrolled in the Medicaid Program to deliver these services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 33:

Chapter 61. Reimbursement

§6101. Reimbursement Methodology

A. - H. ...

J. Support Coordination. Support coordination shall be reimbursed at a fixed monthly rate in accordance with the terms of the established contract.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 33:

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

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this

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

Frederick P. Cerise, M.D., M.P.H.
Secretary

0706#060

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office of the Secretary
Office for Citizens with Developmental Disabilities

Targeted Case Management
Individuals with Developmental Disabilities
(LAC 50:XV.10501, 10505 and 11701)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities proposes to amend LAC 50:XV.10501, 10505 and 11701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing case management services provided to targeted population groups and certain home and community-based services waiver recipients (*Louisiana Register*, Volume 25, Number 7). In May 2004, the bureau repromulgated the July 1999 Rule in a codified format in Title 50 of the Louisiana Administrative Code (*Louisiana Register*, Volume 30, Number 5). The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities implemented a new home and community-based services waiver for persons with developmental disabilities, called the supports waiver. The department amended the provisions governing targeted case management to include recipients receiving services in the supports waiver and to change the name of the Mentally Retarded/Developmentally Disabled Waiver (*Louisiana Register*, Volume 32, Number 9). Case management services for supports waiver recipients are currently being paid from all state general funds pending approval of the associated Medicaid State Plan Amendment. The department now proposes to amend the provisions of the September 20, 2006 Rule governing targeted case management to remove the coverage of case management services for supports waiver recipients. Case management services shall be provided as support coordination services and included as a covered service in the supports waiver program.

This action is being taken to secure enhanced federal funding and eliminate the reliance on state general funds for case management services provided to supports waiver recipients. It is anticipated that implementation of this Emergency Rule will reduce expenditures for Targeted Case Management by approximately \$69,797 for state fiscal year 2006-2007.

Effective June 20, 2007, the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with

Developmental Disabilities amends the provisions governing Targeted Case Management to remove the coverage of case management services for supports waiver recipients.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 105. Provider Participation

§10501. Participation Requirements

A. - D.7. ...

8. assure the recipient's right to elect to receive or terminate case management services (except for recipients in the New Opportunities Waiver, Elderly and Disabled Adult Waiver and Children's Choice Waiver programs). Assure that each recipient has freedom of choice in the selection of an available case management agency (every six months), a qualified case manager or other service providers and the right to change providers or case managers;

9. - 12. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1037 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 33:

§10505. Staff Education and Experience

A. - E.1.d. ...

- e. Targeted EPSDT; and
- f. Children's Choice Waiver

2. - 2.e. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 29:38 (January 2003), LR 30:1038 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 33:

Chapter 117. Individuals with Developmental Disabilities

§11701. Introduction

A. The targeted population for case management services shall consist of individuals with developmental disabilities who are participants in the new opportunities waiver.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1043 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 33:

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

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117.

She is the person responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0706#061

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
State Uniform Construction Code Council**

State Uniform Construction Code (LAC 55:VI.301)

The Louisiana Department of Public Safety and Corrections, Louisiana State Uniform Construction Code Council hereby adopts the following Emergency Rule governing the implementation of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730.21 et seq. This Rule is being adopted in accordance with the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act. This Emergency Rule becomes effective on the date of the signature, May 24, 2007, by the authorized representative of the Louisiana State Uniform Construction Council and shall remain in effect for the maximum period allowed by the APA, which is 120 days.

As a result of the widespread damage caused by Hurricanes Rita and Katrina, the Legislature enacted and mandated a state uniform construction code to promote public safety and building integrity. This new code went into effect statewide on January 1, 2007. The Louisiana State Uniform Construction Code Council ("Council") promulgated rules governing the adoption of the state uniform construction code. The council instituted, in the regular rulemaking process, a Rule pertaining to the International Residential Code, more specifically Chapter 3, Paragraph A.3. In this previous Rule, Part V-Mechanical and Part VIII-Electrical were excluded from the adoption of the International Residential Code. The International Mechanical Code and National Electrical Code, used for commercial projects, refer the user to these chapters of the International Residential Code. Without these chapters included in the International Residential Code, we do not have mechanical and electrical codes for residential construction. Therefore, the Rule is being amended to include the mechanical and electrical chapters into the International Residential Code. Immediately adopting this Rule will provide for mechanical and electrical code standards for residential structures and simplify the process for code enforcement.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

A. - A.2. ...

3. International Residential Code, 2006 Edition, not including Parts I-Administrative and VII-Plumbing. The

applicable standards referenced in that code are included for regulation of construction within this state. Appendix J, Existing Buildings and Structures, is also included for mandatory regulation. For purposes of this Part, Section R301.2.1.1 of the 2003 edition of the International Residential Code is hereby specifically adopted in lieu of the 2006 edition and shall be effective until January 1, 2008. Furthermore, IRC R301.2.1.1 (Design Criteria) shall be amended as follows and shall only apply to the International Residential Code:

- a. Amendment of R301.2.1.1 (Design Criteria);
- b. Item 6, the American Concrete Institute, Guide to Concrete Masonry Residential Construction in High Winds Areas, shall be added;
- c. Item 7, Institute for Business and Home Safety, Optional Code-plus Fortified for Safer Living, shall be added;
- d. Item 8, Federal Alliance for Safe Homes, Optional Code-plus Blueprint for Safety, shall be added.

4. - 7. ...

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 33:

Jill Boudreaux
Undersecretary

0706#002

DECLARATION OF EMERGENCY

Department of Social Services Military Family Assistance Board

Military Family Assistance (LAC 67:III.Chapters 59-67)

In accordance with the Administrative Procedure Act, R.S. 49:953(B), and R.S. 46:120 et seq., the Military Family Assistance Board finds that these emergency rules regulating the eligibility, application, consideration and disbursement process under the Military Family Assistance Act are necessary to prevent imminent peril to the public health, safety and welfare.

In 2005, the Louisiana legislature created the Military Family Assistance Program ("Program") as a payer of last resort to provide emergency financial assistance to military families with direct and immediate financial needs as the result of the military service of a family member. The Program is currently funded solely through donations and began its existence with no funds to disburse. Over the past almost two years, donations have been made to the Program such that the program now has, according to the State Treasurer's Office, approximately \$158,900.00 on deposit.

Now that the program has sufficient funds on hand to begin disbursements, it is necessary that these rules be adopted on an emergency basis in order to begin accepting and processing program applications without further delay.

These rules are hereby adopted, May 24, 2007, and shall remain in effect for 120 days.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 17. Military Family Assistance

Chapter 59. Authority, Construction and Definitions

§5901. Authority

A. Rules and regulations are hereby established by the Military Family Assistance Board by order of the Military Family Assistance Act, R.S. 46: 120, et seq., Act 151 of the 2005 Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:120 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Military Family Assistance Board, LR 33:

§5903. Construction of Regulations; Severability

A. Nothing contained in these rules shall be so construed as to conflict with any provision of the Act or any other applicable statute. If any provision of any rule or regulation is held invalid by any state or federal court in Louisiana, such provision shall be deemed severed from the rule and the court's finding shall not be construed to invalidate any of the other provisions of the rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:120 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Military Family Assistance Board, LR 33:

§5905. Definitions

A. The following terms as used in these regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings:

Activated Military Personnel or *Activated Military Person*—a person domiciled in Louisiana for civilian purposes, names Louisiana as Home of Residence (HOR) for military purposes, and who is a member of a reserve component of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, including the Louisiana National Guard, and called to active federal service in excess of thirty days or who is a member of the Louisiana National Guard and called to active state service pursuant to R.S. 29:7.

Application—a written request for financial assistance from the Military Family Assistance Program made on the form captioned Military Family Assistance Program Request Form, together with documents related thereto.

Approval Authority—the third party administrator for all need-based claims of \$1500 or less; the Fund Committee for all need-based claims of greater than \$1500 up to \$2500; and the board for all need-based claims of greater than \$2500. The Fund Committee and the board are the approval authority for all claims for one-time lump sum payments and all claims appealed by an eligible applicant.

Board—the Louisiana Military Family Assistance Board.

Claimant—an eligible applicant.

Eligible Applicant—activated military personnel or a family member of activated military personnel.

Family Member of Activated Military Personnel—the primary next of kin or an immediate family member.

Final Appeal—an appeal to the Louisiana Military Family Assistance Board.

Fund Committee—the committee comprised of three board members appointed by the Chairman of the board to assist in administering the Louisiana Military Family Assistance Program which committee shall also serve as an appellate body for all claims of \$1500.00 or less before a final appeal is made to the full board.

Immediate Family Member—with respect to an activated military person:

- a. a spouse;
- b. a natural child, adopted child, step child, or illegitimate child, if acknowledged by the person or parenthood has been established by a court of competent jurisdiction, except that if such child has not attained the age of 18 years, the term means a surviving parent or legal guardian of such child;
- c. any other person claimed as a dependent on the federal income tax of the activated military person;
- d. a biological or adoptive parent, unless legal custody of the person by the parent has been previously terminated by reason of a court decree or otherwise under law and not restored;
- e. a brother or sister of the person, if such brother or sister has attained the age of 18 years; or
- f. any other person, if such person was given sole legal custody of the person by a court decree or otherwise under law before the person attained the age of 18 years and such custody was not subsequently terminated before that time.

Third Party Administrator—the Louisiana Office of the Attorney General.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:120 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Military Family Assistance Board, LR 33:

Chapter 61. Eligibility and Application Process

§6101. Eligibility

A. To be eligible for a grant from the Louisiana Military Family Assistance Program, an individual must be either an activated military person or the family member of an activated military person.

B. The activated military person must have served in excess of 30 consecutive days of active duty since September 11, 2001 before the activated military person or any family member may submit an application for assistance to the Louisiana Military Family Assistance Program.

C. The Military Family Assistance Program is a payer of last resort. All applicants shall seek assistance from other available sources prior to making application to the Military Family Assistance Program. Other available sources include, but are not limited to, Army Emergency Relief, Air Force Aid Society, Navy-Marine Corps Relief Society, Coast Guard Mutual Assistance, Salvation Army, American Red Cross, and Veterans' Emergency Assistance.

D. The approval authority may, in its sole discretion, waive the requirement to seek assistance from other available sources when unusual or exigent circumstances make such application impractical or unlikely to produce results in a timely manner or when the applicant shows that the circumstances are such that other potential sources of funds are inapplicable to the particular circumstances.

E. Requests for assistance from the Military Family Assistance Fund shall not be bifurcated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:120 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Military Family Assistance Board, LR 33:

§6103. Application Process

A. Eligible Applicant Responsibilities

1. All requests for assistance shall be made through a completed Louisiana Military Family Relief Assistance Program Request Form.

2. An application is not complete unless it is signed by the applicant and contains all information requested by the form.

3. All applicants shall provide all additional information requested by the Military Family Assistance Board, the Fund Committee, or the third party administrator. Failure to provide additional requested information may result in the denial of the application.

4. Applications for assistance from the Military Family Assistance Program shall include copies of applications for other types of assistance filed by the applicant.

5. Applications, together with all supporting documents, shall be mailed to: Office of the Attorney General, Attn: MFA Third Party Administrator, 1885 North Third Street, Baton Rouge, LA 70801.

6. To expedite the application process, applications and supporting documents may be sent by facsimile transmission to MFA third party administrator. If the application and supporting documents are faxed, an application with the applicant's original signature must also be mailed, along with all supporting documents, to the third party administrator. The approval authority shall not approve or pay a request for assistance until an original application is received.

7. An application for assistance from the Military Family Assistance Fund shall be considered made as of the date that it is received by the third party administrator, provided that for all applications received by facsimile transmission, an application with the applicant's original signature is subsequently received by the third party administrator.

8. If an individual acts on behalf of an eligible applicant in preparing and submitting the application, a copy of a fully executed power of attorney authorizing the individual preparing and submitting the application to act on the eligible applicant's behalf must be submitted as an attachment to the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:120 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Military Family Assistance Board, LR 33:

Chapter 63. Types of Grant Awards; Maximum Award Amounts; Minimum Level in Fund

§6301. Types of Grants; Restrictions on Awards

A. Two types of grants may be made by the Military Family Assistance Fund:

1. grants for need-based assistance; and
2. grants for one-time lump sum awards.

B. No request shall be approved by the board, the Fund Committee, or the third party administrator that does not meet the requirements of the law or the rules.

C. The request of an eligible applicant may be denied if the activated military personnel is not in good standing with

the appropriate military unit at the time the application is submitted or the time payment is made.

D. The board may disapprove a request for assistance if the board determines that the grant of an award under the facts and circumstances of a particular case is not be in the best interests of the board or the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:120 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Military Family Assistance Board, LR 33:

§6303. Award Amounts

A. The maximum dollar amount that may be awarded on behalf of an activated military person for a need-based claim per twelve month period is \$ 10,000.

B. The maximum dollar amount for need-based claims shall apply per active duty order.

C. One uniform maximum dollar amount that may be awarded on behalf of an activated military person for a one-time lump sum award shall be \$700. With respect to one-time lump sum awards, the following shall apply.

1. An eligible applicant may be awarded an additional one-time lump sum award for cost directly related to a service related death or an injury with a greater than fifty percent residual disability.

2. One-time lump sum awards are addition to, and not in lieu of, need-based awards.

3. A one-time lump sum award may be made only when extenuating circumstances are present. Extenuating circumstances include, but are not limited to:

a. the circumstance in which the injured military person is recuperating in a location away from home that necessitates travel by family members to visit with the injured military person. Costs associated with transportation, lodging, meals, and other related matters not covered by any other source to enable family members to visit an activated military person with a service related injury with a greater than fifty percent residual disability, whether the extent of the disability has been determined at the time application is made or is reasonably anticipated to result in a greater than fifty percent residual disability at the time application is made, may be requested;

b. the circumstance in which the funeral of an activated military person necessitates travel by family members to attend the funeral. Costs associated with transportation, lodging, meals, and other related matters not covered by any other source to enable family members to attend the funeral of an activated military person may be requested;

c. the circumstance in which the absence of family members to visit the injured activated military person or attend the funeral of the activated military person creates financial needs for the care of a home, pets, children, or others when the financial need is not covered by any other source;

d. such other extenuating circumstances as may be determined on a case-by-case basis by the Fund Committee.

4. Family members of activated military personnel who are listed as missing in action or prisoner of war by the U.S. Department of Defense shall be eligible for the lump sum award. The activated military person must be listed as missing in action or a prisoner of war on or after September 11, 2001.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:120 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Military Family Assistance Board, LR 33:

§6305. Minimum Funding Levels; Reserve Level; Calculation of Funds Available for Payment of One-Time Lump Sum Awards

A. The Military Family Assistance Fund shall have a minimum of \$150,000 on deposit for the Military Family Assistance Program to become operational.

B. At all times the fund shall have a reserve of a minimum of \$15,000.

C. For fiscal year 2006/2007, the maximum percentage of the Military Family Assistance Fund that may be directed to one-time lump sum awards shall not exceed five percent. The percentage shall be based on the amount of funds on deposit in the Military Family Assistance Fund as of the date of the approval of these emergency rules.

D. For fiscal year 2007/2008 and each succeeding fiscal year, the maximum percentage of the Military Family Assistance Fund that may be directed to one-time lump sum awards shall not exceed twenty percent. This percentage shall be based on the amount of funds on deposit in the Military Family Assistance Fund as of the first day of the fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:120 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Military Family Assistance Board, LR 33:

Chapter 65. Responsibilities of Third Party Administrator, Fund Committee, and Board

§6501. Third Party Administrator

A. The third party administrator shall receive all need-based applications and all applications for one-time lump sum assistance.

B. The third party administrator is authorized to review, process, approve and remit payment on all need-based applications of \$1500 and less. In no event shall the third party administrator remit payment on any request that exceeds \$1500 without the prior express written approval of the board or the Fund Committee.

C. The third party administrator is authorized to disapprove need-based applications for \$1500 or less if the eligible applicant fails to show that all requirements set forth in the law and the rules are met. The eligible applicant has the right to appeal such disapproval to the Fund Committee.

D. With respect to need-based applications of \$1500 and less, the third party administrator is authorized to approve the claim in part and disapprove the claim in part. The eligible applicant has the right to appeal the third party administrator's disapproval of any part of its need-based claim to the Fund Committee.

E. For all need-based applications received, regardless of the dollar amount of the request, the third party administrator shall make a determination on the following issues:

1. that all awards are on behalf of activated military personnel;

2. that all awards are made pursuant to a claim that is made by an eligible applicant;

3. that all awards are need-based. The third party administrator may consider a claim need-based if all of the following apply:

- a. the funds are requested for necessary expenses incurred or to be incurred;
- b. the necessary expenses created or will create an undue hardship on the activated military person or family member;
- c. the undue hardship is directly related to the activation of the military person;
- d. the activated military person or family member does not have reasonable and timely access to any other funding source;
- e. payment of the claim does not supplant other available public or private funds; and
- f. the Louisiana Military Family Assistance Fund is the eligible applicant's last resort.

F. For all one-time lump sum applications, the third party administrator shall make an initial determination of whether extenuating circumstances exist that support approval of the application.

G. After making the determinations set forth above, the third party administrator shall, for all need-based applications requesting assistance in an amount greater than \$1500 and for all one-time lump sum applications, forward the application together with all supporting documents and the determination to the Fund Committee for further review and processing, approval or disapproval, and payment by the third party administrator in the event of approval.

H. If the third party administrator approves a request of \$1500 or less, it shall determine when the claim shall be paid, the amount of payment, to whom the payment shall be made, and such other matters as it deems necessary and appropriate.

G. The third party administrator shall make a written determination on all applications for assistance as soon as possible.

1. In no event shall the time period between receipt of the completed application by the third party administrator and release of the written determination by the third party administrator exceed thirty calendar days.

2. The written determination shall be:

- a. to approve the claim;
- b. to disapprove the claim;
- c. to request additional information or documentation regarding the claim; or
- d. to schedule a meeting with the eligible applicant to discuss the claim.

H. If the third party administrator schedules a meeting, it shall make a determination within fifteen days following the date that such meeting actually takes place. The determination shall be to either approve or disapprove the claim.

I. If the third party administrator fails to make a written determination within the time periods set forth in these rules, the claim shall be considered disapproved. The eligible applicant may then lodge an appeal within the time delays set forth by statute.

J. The third party administrator shall determine that sufficient funds are on deposit for the payment of all approved claims.

K. The third party administrator shall notify the Fund Committee and the board in writing any time approved applications will cause the Military Family Assistance Fund's unobligated balance to drop to within \$15,000 of its minimum reserve level.

L. With respect to any application that creates a conflict of interest for the third party administrator, the third party administrator shall refer the application to the Fund Committee for consideration and action.

M. The third party administrator shall notify the board if it appears that an application is submitted in violation the law and these rules.

N. The third party administrator shall submit such reports to the Fund Committee and the board as are requested.

O. The third party administrator may refer need-based requests for assistance to the Fund Committee for determination if the third party administrator suspects that the grant of an award under the facts and circumstances of a particular case may not be in the best interests of the board or the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:120 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Military Family Assistance Board, LR 33:

§6503. Fund Committee

A. The Fund Committee shall receive determinations from the third party administrator and make decisions on all need-based applications of greater than \$1500 up to \$2500 and all applications for one-time lump sum assistance.

B. The Fund Committee shall sit as a board of appeals for the third party administrator's disapproval of all or any part of a need-based application for \$1500 or less. If the Fund Committee disapproves the eligible applicant's request for assistance, the eligible applicant may appeal the Fund Committee's disapproval to the Military Family Assistance Board.

C. The Board Chairman shall designate the members of the Fund Committee and shall select alternates to act on their behalf.

D. The Fund Committee shall receive the third party administrator's monthly report on applications received and claims paid. The Fund Committee shall determine the payment of claims when the Military Family Assistance Fund falls to within \$15,000 of its minimum funding level.

E. The Fund Committee shall instruct the third party administrator with respect to the receipt and processing of all applications for assistance from the fund if the fund falls to within \$15,000 of its minimum funding level.

F. The Fund Committee may refer need-based requests for assistance and requests for one-time lump sum awards to the board for determination if the Fund Committee suspects that the grant of an award under the facts and circumstances of a particular case may not be in the best interests of the board or the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:120 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Military Family Assistance Board, LR 33:

§6505. The Board and Chairman of the Board

A. If the board suspects that an application is submitted in violation of the provisions of the law and these rules, it shall refer such application to the appropriate district attorney's office.

B. The board shall provide an annual report to the Joint Legislative Committee on the Budget on the overall activities of the program and any recommendations for consideration.

C. The chairman of the board shall appoint three board members and alternates to serve on the Fund Committee.

D. The board shall sit as a final board of appeals for all applications disapproved by the Fund Committee. An eligible applicant shall have no right to appeal the final decision of the board to any other court, tribunal, or hearing body.

E. The board shall make determinations on requests for assistance brought before the board.

F. The board shall exercise oversight of the activities of the Third Party Administrator and the Fund Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:120 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Military Family Assistance Board, LR 33:

Chapter 67. Appeals; Withdrawal of Applications; Waivers

§6701. Appeals

A. An eligible applicant may appeal the Third Party Administrator's disapproval of all or any part of the request for assistance to the Fund Committee within thirty days of the receipt of the written determination disapproving the claim.

B. The Fund Committee is authorized by these rules to decline to consider any appeal that is not timely filed.

C. An eligible applicant may appeal the Fund Committee's disapproval of claim to the board within thirty days of the receipt of the written determination disapproving the claim.

D. The board is authorized by these rules to decline to consider any appeal that is not timely filed.

E. The decision of the board on a request for assistance shall be final. The Third Party Administrator, the Fund Committee, and the eligible applicant shall not have a right to appeal the final decision of the board to any court, tribunal, or hearing body of any kind.

F. The eligible applicant may request reconsideration of a disapproval of claim by the Third Party Administrator, the Fund Committee, or the board. The request for reconsideration shall be made within 30 days of the date of the eligible applicant's receipt of the written determination disapproving the claim. The request for reconsideration shall be made to the approval authority that disapproved the request for assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:120 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Military Family Assistance Board, LR 33:

§6703. Withdrawal of Applications

A. An eligible applicant and anyone properly acting on behalf of an eligible applicant shall have the right to withdraw the application at any time prior to final disposition of the application by the Third Party Administrator, the Fund Committee or the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:120 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Military Family Assistance Board, LR 33:

§6705. Waivers

A. Prior to the approval of a claim, applications and the identity of eligible applicants and their related military personnel shall be confidential unless expressly waived by the eligible applicant in writing. The filing of an appeal before the Fund Committee or the board shall be considered a waiver of the identity of eligible applicants and their related military personnel.

B. Once a claim is approved, the identity of the eligible applicant, related activated military personnel, and any person filing the application on behalf of the eligible applicant, and the amount approved shall be public record.

C. Applications, the identify of applicants and their related military personnel, and all records of the board, the Fund Committee and the Third Party Administrator related thereto, shall be available prior to any approval of the application, to necessary parties including but not limited to, the legislative auditor, the legislative oversight committee for rules and annual reports, and such other parties as necessary for prudent administration of the Military Family Assistance Program and verification of elements of the application.

D. The board, the Fund Committee, and the third party administrator are expressly authorized to make public data concerning the number of applications received, the amount of claims approved, the geographic areas of the state from which such applications are received and approved, the number of disapproved applications, and the amount of funds in the Louisiana Family Military Assistance Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:120 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Military Family Assistance Board, LR 33:

Hunt Downer
Assistant Adjutant General

0706#054

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial Deepwater Grouper Closure

The commercial season for the harvest of deepwater groupers in Louisiana state waters will close effective 12:01 a.m. on June 2, 2007. The deepwater grouper assemblage includes misty, snowy, yellowedge, Warsaw grouper, and speckled hind. The secretary has been informed that the commercial season for deepwater groupers in the federal

waters of the Gulf of Mexico off the coast of Louisiana will close at 12:01 a.m. on June 2, 2007, and will remain closed until 12:01 a.m., January 1, 2008.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in its resolution of January 4, 2007 to modify opening and closing dates of 2007 commercial reef fish seasons in Louisiana state waters when he is informed by the Regional Director of the National Marine Fisheries Service that the seasons have been closed in adjacent federal waters, and that the NMFS requests that the season be modified in Louisiana state waters, the secretary hereby declares:

The commercial fishery for deepwater groupers in Louisiana waters will close at 12:01 a.m. on June 2, 2007, and remain closed until 12:01 a.m., January 1, 2008. Effective with this closure, no person shall commercially harvest, possess, purchase, barter, trade, sell or attempt to

purchase, barter, trade or sell deepwater groupers whether within or without Louisiana waters. Effective with closure, no person shall possess deepwater grouper in excess of a daily bag limit, which may only be in possession during the open recreational season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing deepwater grouper taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The secretary has been notified by National Marine Fisheries Service that the commercial deepwater grouper season in federal waters of the Gulf of Mexico will close at 12:01 a.m. on June 2, 2007, and the season will remain closed until 12:01 a.m., January 1, 2008. Having compatible season regulations in state waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of these species in the long term.

Bryant O. Hammett, Jr.
Secretary

0706#008

Rules

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Seed Commission

Contaminated Seed Stock—Cheniere Rice (LAC 7:XIII.Chapter 3)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 3:1433, the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, adopts regulations governing the sale, distribution and planting of contaminated seed stock, in particular, Cheniere rice.

In August of 2006, the United States Department of Agriculture (USDA) announced that trace amounts of a genetically modified trait, LibertyLink 601 (LL traits) had been found in the U.S. rice supply. Foundation seed of Cheniere rice produced in 2003 has been found to have LL traits. The announcement also indicated that based on the scientific data reviewed, the USDA and the U.S. Food and Drug Administration concluded that no human health, food safety, or environmental concerns were associated with this genetically modified rice. The rice industry in Louisiana contributes over \$250,000,000 to Louisiana's economy through the sale of rice.

Following that announcement, the rice market has experienced turmoil because of the uncertainty of being able to market such rice, despite the conclusions regarding human health, food safety and environmental concerns. Some rice importing countries have expressed concerns about genetically modified rice. The European Union has stated that the countries in the union will not buy rice contaminated with LL traits. It is vital that Louisiana's rice industry maintain the European Union as a market for Louisiana rice. Further it is necessary to forestall any embargo of rice that comes from Louisiana by other rice importing countries.

These rules are enabled by R.S. 3:1433.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 3. Contaminated Seed Stock and Other Propagating Stock

§301. Planting of Cheniere Rice and Other Varieties with LL Traits

A. The following seeds may not be sold, offered for sale, or planted in Louisiana as seed for purposes of producing a new plant, except as otherwise provided by this Chapter:

1. the Cheniere variety of rice;
2. any portion of any variety of rice that tests positive, according to tolerances established by the department, for LL traits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:990 (June 2007).

§303. Planting of Breeder, Foundation or Registered Cheniere Rice Seed Stock

A. Breeder, Foundation or Registered Cheniere rice seed may be sold, offered for sale or planted in Louisiana only for the purpose of seed stock increase, subject to the sampling and testing requirements set out in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:990 (June 2007).

§305. Planting of Breeder, Foundation or Registered Rice Seed of Other Varieties Stock

A. Breeder, Foundation or Registered seed of other varieties of rice where the variety as a whole is found to test positive, according to tolerances established by the department, for LL traits may be sold, offered for sale or planted in Louisiana only for the purpose of seed stock increase, subject to the sampling and testing requirements set out in this Chapter.

B. If a portion of a variety of rice, other than Cheniere rice, is found to test positive for LL traits according to tolerances established by the department, but there is no need to declare the variety as a whole to be contaminated with LL traits then the variety may continue to be planted in Louisiana. However, the portion found to test positive shall be placed under a "stop-sale" order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:990 (June 2007).

§307. Sampling of Rice Seed for the Detection of LL Traits

A. Samples of all Breeder, Foundation, Registered and Certified rice seed shall be taken by the Louisiana Department of Agriculture and Forestry (department) for testing. The department shall conduct the testing or cause the testing to be done in laboratories approved by the department. The department shall determine the method and manner of sampling and the number of samples that are needed.

B. Each sample must test negative for LL traits according to tolerances established by the department.

C. All costs incurred by the department in regard to sampling, including but not limited to the taking, transportation, testing, and disposal of samples, shall be paid by the person or entity requesting the sampling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:990 (June 2007).

§309. Stop-Sale

A. If any lot of Breeder, Foundation, Registered or Certified rice seed that are subject to the requirements of this Chapter tests positive for LL traits according to tolerances established by the department then such seed shall be placed under a "stop-sale" order and moved, handled or disposed of only with the express permission of the commissioner or his designate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:991 (June 2007).

Bob Odom
Commissioner

0706#042

RULE

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices—*Integrated LEAP* and Assessment of Special Populations (LAC 28:CXI.1709-1729, 3306, and 3307)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 118—Statewide Assessment Standards and Practices*: Chapter 17, *Integrated LEAP*, and Chapter 33, Assessment of Special Populations. Bulletin 118 contains the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The purpose of this project is to provide information regarding:

Addition of Achievement Level Descriptors for *iLEAP* in Chapter 17 which causes a reformatting of the Chapter beginning at Subchapter D, §1709 through the end of the Chapter.

Addition of language to Chapter 33, §3306.6.b and §3306.9 and §3307.C.1.d regarding *iLEAP* accommodations for Special Populations.

**Title 28
EDUCATION**

Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 17. *Integrated LEAP*

Subchapter D. *iLEAP* Achievement Level Descriptors

§1709. Introduction

A. Achievement level descriptors for Louisiana assessments were developed by committees composed of Louisiana educators who represented the subjects and grades assessed. They define what a student should know and be able to do at each achievement level for each subject assessed at a given grade level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:990 (June 2007).

§1711. Grade 3 Achievement Level Descriptors

A. Grade 3 English Language Arts Achievement Level Descriptors

Advanced
<p>Students scoring at the Advanced level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify word meanings using a variety of strategies; 2. demonstrate both literal and inferential understanding of what they read by making inferences, generalizations, and predictions; drawing conclusions; extending ideas; and making connections between what they read and their own experiences; 3. identify story elements, literary devices, and author's purpose; 4. research a topic by locating, selecting, and evaluating appropriate information from multiple print and electronic sources for a specified purpose; 5. identify parts of a bibliographic entry using a model; 6. use critical and/or creative thinking in response to a writing task; 7. develop a response with a central idea, logical organization, thorough elaboration, and transitional words and/or phrases; 8. demonstrate an awareness of audience through use of effective vocabulary, sentence patterns, and personal style; and 9. maintain consistent command of sentence formation, usage, mechanics, and spelling.
Mastery
<p>Students scoring at the Mastery level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify words with multiple meanings using various strategies; 2. demonstrate understanding of what they read by making inferences, drawing conclusions, and identifying main ideas and cause/effect relationships; 3. identify story elements, literary devices, and an author's purpose for writing; 4. make connections between different elements within the text and their own experiences; 5. research a topic by locating information from a variety of print and electronic sources for a specified purpose; 6. identify parts of a bibliographic entry using a model; 7. use critical and/or creative thinking in response to a writing task; 8. develop a response with a central idea, logical organization, elaboration with supporting details, and transitions; 9. demonstrate audience awareness through use of selected vocabulary, varied sentence patterns, and a personal style; and 10. demonstrate reasonable command of sentence formation, usage, mechanics, and spelling.
Basic
<p>Students scoring at the Basic level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use knowledge of basic decoding skills to identify word meanings; 2. demonstrate understanding of what they read by locating specific details and information, identifying main ideas, making simple inferences, and drawing simple conclusions; 3. make obvious connections between elements within texts and their own experiences; 4. identify an author's purpose for writing, including informing; 5. research a topic by locating information from multiple commonly used print and electronic sources; 6. identify parts of bibliographic entries using a model; 7. use some critical and/or creative thinking in response to a writing task; 8. develop a response with a central idea, observable organization, supporting details, and some translations; 9. demonstrate audience awareness through use of grade-appropriate vocabulary and sentence patterns; and 10. demonstrate partial command of sentence formation, usage, mechanics, and spelling.

Approaching Basic
<p>Students scoring at the Approaching Basic level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of some grade-appropriate vocabulary; 2. demonstrate understanding of what they read, including identifying main events and details, making simple predictions, and sequencing events; 3. identify how elements within a text relate to each other and their personal experiences; 4. research a topic by locating information in commonly used sources; 5. identify some parts of bibliographic entries using a model; 6. demonstrate a partial response to a writing task; 7. develop a response with a vague central idea, weak organization, and minimal detail; 8. demonstrate limited audience awareness through use of simple and/or inappropriate vocabulary, simple sentences, and minimal evidence of personal style; and 9. demonstrate inconsistent or little command of sentence formation, usage, mechanics, and spelling.
Unsatisfactory
<p>Students scoring at the Unsatisfactory level in English Language Arts have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate an understanding of what they read; 2. make connections between information in texts and their own experiences; 3. locate information in commonly used sources; 4. develop an appropriate response to a writing task; 5. construct a response with a focused central idea, observable organization, and sufficient supporting details; 6. show audience awareness through use of appropriate vocabulary, varied sentence structure, and personal style, and 7. demonstrate acceptable command of sentence formation, usage, mechanics, and spelling.

B. Grade 3 Mathematics Achievement Level Descriptors

Advanced
<p>Students scoring at the Advanced level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use mathematical reasoning to connect procedures and concepts among different areas of content strands; 2. communicate thoughts, procedures, and solutions using mathematical language and symbols in complex real-world problems; 3. represent data in multiple formats; 4. use models to discuss probability; 5. apply strategies of measurement to solve real-world problems; 6. apply concepts of geometry to solve real-world problems; and 7. identify, extend, and explain complex patterns and relationships including growing patterns.
Mastery
<p>Students scoring at the Mastery level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use multiple strategies to solve real-life problems by using the four basic operations; 2. select and use mathematical operations, words, and symbols to solve real-life problems; 3. categorize and sort objects based on qualitative or quantitative characteristics; 4. draw logical conclusions and make predictions based on representation of data; 5. select and use appropriate tools and units of measure; 6. compare and group two-and three-dimensional objects according to their attributes; and 7. identify and extend patterns and relations.

Basic
<p>Students scoring at the Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. solve multi-step real-life problems by using the four basic operations; 2. read mathematical words and symbols and understand their meanings; 3. make basic interpretations of data represented in tables, graphs, maps, advertisements, etc.; 4. demonstrate an understanding of basic probability concepts; 5. use models to compare whole numbers, represent fractions, and conceptualize multiplication and division; 6. measure objects using specified tools and units; 7. express working knowledge and vocabulary of two-and three-dimensional geometric objects; and 8. identify and extend patterns.
Approaching Basic
<p>Students scoring at the Approaching Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use basic strategies to solve single-step problems involving addition and subtraction; 2. recognize mathematical words and symbols; 3. match one-parameter data sets to representations as tables and charts; 4. identify measurement tools and units; 5. recognize basic two-dimensional shapes; and 6. identify and extend simple patterns.
Unsatisfactory
<p>Students scoring at the Unsatisfactory level in Mathematics have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. use basic strategies to solve single-step problems involving addition and subtraction; 2. recognize mathematical words and symbols; 3. match one-parameter data sets to representations as tables and charts; 4. identify measurement tools and units; 5. recognize basic two-dimensional shapes; and 6. identify and extend simple patterns.

C. Grade 3 Science Achievement Level Descriptors

Advanced
<p>Students scoring at the Advanced level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. generate, conduct, and compare simple investigations based on testable questions; make accurate observations using appropriate tools and resources; draw and evaluate conclusions; and communicate ideas, procedures, and data appropriately; 2. explain what is known and what is unknown in scientific investigations and compare the effects of scientific discoveries on society; 3. compare, classify, and relate objects and substances to their appropriate uses based on their properties and physical states; 4. explain how forces are pushes or pulls and analyze the relationships between motion, forces, and the masses of objects; 5. compare common forms of energy and describe the connections between different forms of energy as they are used; 6. describe how similar structures and functions meet the needs of different organisms and classify organisms in multiple ways; 7. explain how organs of the digestive system function and describe how the components of the skeletal function; 8. explain patterns affected by the apparent movement of the Sun and Earth and differentiate the planets of the solar system;

Advanced	
9.	describe climate patterns; explain the water cycle, erosion, and weathering, differentiate types of rocks, soil components, and fossils; explain how fossils are used to determine the age of rocks; and compare the living and nonliving components in ecosystems;
10.	classify manufactured goods; identify sources of resources; and explain how resources can be replenished, depleted, and conserved.
Mastery	
Students scoring at the Mastery level in science generally exhibit the ability to:	
1.	describe simple investigations based on questions; make observations using appropriate tools and resources; draw conclusions; and communicate ideas, procedures, and data in a variety of ways;
2.	identify what is known and what is unknown in scientific investigations and explain the effects of scientific discoveries on society;
3.	compare, classify, and relate objects and substances to their properties and explain how matter changes physical states;
4.	describe how forces are pushes or pulls and explain the relationships between the motion of objects and forces;
5.	describe the characteristics of sound, light, and electricity and compare common forms of energy and their uses;
6.	compare plant and animal structures and functions and classify organisms based on common characteristics;
7.	describe the function of an organ in the digestive system and describe how the components of the skeletal system function;
8.	describe patterns affected by the apparent movement of the Sun and Earth and identify, in order, the planets of the solar system;
9.	describe climate patterns from recorded weather conditions, the water cycle, erosion, and weathering;
10.	organize rocks by major types; compare soil components; identify fossil characteristics; and explain how fossils illustrate the past;
11.	describe interrelationships of components of ecosystems and describe the effects of humans on organisms and the environment; and
12.	classify manufactured goods by resource type and explain how resources can be replenished or depleted.
Basic	
Students scoring at the Basic level in science generally exhibit the ability to:	
1.	identify testable questions and conduct simple investigations using directions;
2.	use simple tools and resources to make and describe observations; draw conclusions based on data; and communicate results;
3.	identify testable questions and recognize what is known and what is unknown in scientific investigations;
4.	measure and describe properties of objects and substances and identify changes between the physical states of matter;
5.	identify forces as pushes or pulls and describe motion;
6.	identify the characteristics of sound, light, and electricity and common forms of energy and their uses;
7.	identify plant and animal structures and functions and compare organisms based on common characteristics;
8.	describe the roles of the digestive and skeletal systems;
9.	describe patterns of change in position of the Sun and identify planets of the solar system;
10.	describe precipitation, runoff, erosion, weathering, climate, and weather and give examples of each;
11.	describe characteristics of rocks, identify major soil components; identify fossils; and give examples of how fossils illustrate the past;

Basic	
12.	identify living and nonliving components of an ecosystem and give examples of how humans affect the environment; and
13.	identify examples of manufactured products and explain the differences between renewable and nonrenewable resources.
Approaching Basic	
Students scoring at the Approaching Basic level in science generally exhibit the ability to:	
1.	recognize some testable questions and conduct steps of an investigation, given explicit directions;
2.	identify tools or resources needed to make and describe observations and describe the results of an experiment;
3.	recognize that some questions are testable and some are not;
4.	describe properties of objects and substances and identify freezing, melting, and boiling;
5.	identify forces as pushes or pulls;
6.	identify characteristics of sound, light, or electricity and common forms of energy or their uses;
7.	identify plant and animal structures and describe common characteristics of organisms;
8.	identify organs in the digestive system and/or components of the skeletal system;
9.	identify simple patterns of change in day and night and shadows and identify examples of planets of the solar system;
10.	recognize and identify examples of precipitation, runoff, and erosion and describe climate and weather or give examples of each;
11.	identify differences in some rocks, recognize and describe soil; and define fossil and recognize one when it is presented;
12.	identify basic components of an ecosystem and recognize how human activities affect the environment; and
13.	identify examples of manufactured products and renewable and nonrenewable resources.
Unsatisfactory	
Students scoring at the Unsatisfactory level in science have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:	
1.	recognize some testable questions and conduct steps of an investigation, given explicit directions;
2.	identify tools or resources needed to make and describe observations and describe the results of an experiment;
3.	recognize that some questions are testable and some are not;
4.	describe properties of objects and substances and identify freezing, melting, and boiling;
5.	identify forces as pushes and pulls;
6.	identify characteristics of sound, light, or electricity and common forms of energy or their uses;
7.	identify plant and animal structures and describe common characteristics of organisms;
8.	identify organs in the digestive system and/or components of the skeletal system;
9.	identify simple patterns of change in day and night and shadows and identify examples of planets of the solar system;
10.	recognize and identify examples of precipitation, runoff, and erosion and describe climate and weather or give examples of each;
11.	identify differences in some rocks; recognize and describe soil; and define fossil and recognize one when it is presented;
12.	identify basic components of an ecosystem and recognize how human activities affect the environment; and
13.	identify examples of manufactured products and renewable and nonrenewable resources.

D. Grade 3 Social Studies Achievement Level Descriptors

Advanced
<p>Students scoring at the Advanced level in social studies generally exhibit the ability to:</p> <ol style="list-style-type: none"> analyze geographical data, physical characteristics, patterns of settlement, and the changing environment of Louisiana; analyze spatial and cultural relationships between humans and the environment; analyze charts, graphs, diagrams, and maps; analyze governmental responsibilities at various levels, including state government; analyze the differences between rules and laws, citizen involvement in government, and the qualities of a good citizen; analyze fundamental economic concepts; compare various components of the economy, including the local and regional trade of goods and services produced in Louisiana; differentiate among types of historical sources; describe and analyze information presented in various graphic forms; describe family life and analyze changes within society; and describe and analyze historical figures, symbols, and events in Louisiana history.
Mastery
<p>Students scoring at the Mastery level in social studies generally exhibit the ability to:</p> <ol style="list-style-type: none"> organize and interpret geographical data about Louisiana; explain the physical characteristics, patterns of settlement, and changing environment of Louisiana; compare spatial and cultural relationships between humans and the environment; evaluate charts, graphs, diagrams, and maps; describe governmental responsibilities at various levels, including state government; describe the differences between rules and laws, citizen involvement in government, and the qualities of a good citizen; describe fundamental economic concepts; explain various components of the economy, including the local and regional trade of goods and services produced in Louisiana; categorize various types of historical sources and interpret information presented in various graphic forms; explain family life and how it changes; and describe historical figures, symbols, and events in Louisiana history.
Basic
<p>Students scoring at the Basic level in social studies generally exhibit the ability to:</p> <ol style="list-style-type: none"> use geographical data to explain events related to Louisiana; describe the physical characteristics, patterns of settlement, and changing environment of Louisiana; describe spatial and cultural relationships between humans and the environment; describe how charts, graphs, diagrams, and maps are used; identify governmental responsibilities at various levels, including state government; identify differences between rules and laws, citizen involvement in government, and the qualities of a good citizen; identify some fundamental economic concepts and terms and recognize and describe various components of the economy, including the local and regional trade of goods and services produced in Louisiana; identify types of historical sources and recognize information presented in various graphic forms; describe family life and how it changes; and identify the importance of historical figures, symbols, and events in Louisiana history.

Approaching Basic
<p>Students scoring at the Approaching Basic level in social studies generally exhibit the ability to:</p> <ol style="list-style-type: none"> identify geographical data related to events in Louisiana; recognize the physical characteristics, patterns of settlement, and changing environment of Louisiana; recognize spatial relationships between humans and the environment; identify features of charts, graphs, diagrams, and maps; recognize governmental responsibilities at various levels, including state government; identify differences between rules and laws, citizen involvement in government, and the qualities of a good citizen; identify some fundamental economic concepts and terms and recognize components of the economy, including the local and regional trade of goods and services produced in Louisiana; recognize that there are several types of historical sources and that historical information may be presented in various graphic forms; recognize family life and how it changes; and identify historical figures, symbols, and events in Louisiana history.
Unsatisfactory
<p>Students scoring at the Unsatisfactory level in social studies have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> identify geographical data related to events in Louisiana; identify features of charts, graphs, diagrams, and maps; recognize the physical characteristics, patterns of settlement, and changing environment of Louisiana; recognize spatial relationships between humans and the environment; recognize governmental responsibilities at various levels, including state government; identify differences between rules and laws, citizen involvement in government, and the qualities of a good citizen; identify some fundamental economic concepts and terms and recognize various components of the economy, including the local and regional trade of goods and services produced in Louisiana; recognize that there are several types of historical sources and that historical information may be presented in various graphic forms; recognize family life and how it changes; and identify historical figures, symbols, and events in Louisiana history.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:991 (June 2007).

§1713. Grade 5 Achievement Level Descriptors

A. Grade 5 English Language Arts Achievement Level Descriptors

<p>Students scoring at the Advanced level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> identify meanings of a wide variety of words using a range of strategies; interpret meanings of various story elements and literary devices and analyze an author's purpose and viewpoint; extend ideas in what they read by making inferences, drawing conclusions, determining cause and effect, and making connections to their own life experiences; research a topic by selecting and integrating information from multiple print and electronic sources; identify accurate documentation of sources following a model;
--

Advanced	
6.	use analytical, critical, and/or creative thinking in response to a writing task;
7.	construct a response with a focused central idea, logical organization, and effective transitional words and phrases;
8.	use vocabulary, language, and complex sentence structure designed to manipulate the intended audience, enhance meaning, and reflect personality; and
9.	maintain consistent command of sentence formation, usage, mechanics, and spelling.
Mastery	
Students scoring at the Mastery level in English Language Arts generally exhibit the ability to:	
1.	identify word meanings using a variety of strategies;
2.	interpret the meaning of various story elements and literary devices;
3.	identify an author's purpose and viewpoint;
4.	make connections between information in texts and their personal experiences;
5.	use a variety of reasoning skills including identifying stated and implied main ideas, making inferences, and drawing conclusions;
6.	research a topic by locating and selecting information from multiple print and electronic sources;
7.	identify all parts of bibliographic entries following a model;
8.	use analytical, critical, and/or creative thinking in response to a writing task;
9.	construct a response with a clear central idea, a logical organizational pattern, a variety of supporting details, and transitions that unify;
10.	demonstrate an awareness of audience through the use of vocabulary, language, and a variety of sentence types that clarify meaning; and
11.	demonstrate reasonable command of sentence formation, usage, mechanics, and spelling.
Basic	
Students scoring at the Basic level in English Language Arts generally exhibit the ability to:	
1.	identify meanings of grade-level words using various strategies;
2.	demonstrate an overall understanding of what they read by identifying literal and inferential information and by making connections to their own experiences;
3.	identify story elements, literary devices, and author's intent or purpose;
4.	extend ideas in the text by making inferences and drawing conclusions;
5.	use reasoning skills, including identifying stated and implied main ideas of a selection;
6.	research a topic by locating information in commonly used print and electronic sources;
7.	give credit for borrowed information following a model;
8.	use critical and/or creative thinking in response to a writing task;
9.	construct a response with a central idea, an observable organizational pattern, some supporting details, and simple transitions;
10.	demonstrate audience awareness by using language and some sentence variety appropriate to the task and intended audience; and
11.	demonstrate partial command of sentence formation, usage, mechanics, and spelling.

Approaching Basic	
Students scoring at the Approaching Basic level in English Language Arts generally exhibit the ability to:	
1.	identify meanings of commonly used words;
2.	identify literary elements such as characters and themes, some literary devices, and the author's purpose;
3.	demonstrate partial understanding of what they read by identifying stated main ideas and simple cause/effect relationships, making simple inferences, drawing simple conclusions, and making limited connections to their own experiences;
4.	research a topic by locating some information in commonly used print and electronic sources;
5.	identify some parts of a bibliographic entry following a model;
6.	demonstrate a partial response to a writing task;
7.	construct a response with a weak central idea, weak organization, and few supporting details;
8.	demonstrate limited audience awareness through use of simple and/or inappropriate vocabulary and sentence structure; and
9.	demonstrate inconsistent or little command of sentence formation, usage, mechanics, and spelling.
Unsatisfactory	
Students scoring at the Unsatisfactory level in English Language Arts have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:	
1.	demonstrate an understanding of what they read;
2.	make interpretations and connections between information in texts and their own experiences;
3.	locate information in commonly used sources;
4.	develop an appropriate response to a writing task;
5.	construct a response with a focused central idea, observable organization, and sufficient supporting details;
6.	show audience awareness through use of appropriate vocabulary, varied sentence structure, and personal style; and
7.	demonstrate acceptable command of sentence formation, usage, mechanics, and spelling.

B. Grade 5 Mathematics Achievement Level Descriptors

Advanced	
Students scoring at the Advanced level in Mathematics generally exhibit the ability to:	
1.	analyze and evaluate the most efficient strategies and appropriate procedures to solve complex multi-step problems;
2.	translate between real-world problem settings and mathematical expressions and sentences;
3.	draw conclusions from data represented in various forms;
4.	compare and contrast concrete models and numerical values for probabilities;
5.	use a coordinate grid to illustrate transformations and symmetries;
6.	model and solve real-life problems involving connections among the concepts and skills in the six content strands;
7.	communicate mathematical thinking using appropriate terminology and notation; and
8.	create, extend, and describe a variety of patterns.

C. Grade 5 Science Achievement Level Descriptors

Mastery
<p>Students scoring at the Mastery level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use multiple strategies to solve real-life problems using whole numbers; 2. connect conceptual models and pictures with mathematical language and operations; 3. use appropriate strategies for calculating, comparing, and estimating measurements; 4. use models and drawings to describe and interpret basic geometric transformations and symmetries; 5. identify and plot points on a coordinate grid; 6. organize and display data using a variety of tables and graphs; 7. represent probabilities as common fractions and recognize that probabilities fall between 0 and 1; 8. solve multi-step problems and determine the reasonableness of answers; and 9. extend and describe a variety of patterns.
Basic
<p>Students scoring at the Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. solve real-life problems using whole numbers; 2. use estimation strategies and mental math to determine reasonable values and solutions; 3. identify positive solutions to inequalities on a number line; 4. choose tools necessary to measure accurately and estimate measurements; 5. identify basic geometric transformations and symmetries; 6. identify points on a coordinate grid; 7. organize and display data using tables and graphs and represent probabilities as common fractions; 8. determine operations necessary to solve multi-step problems; and 9. complete missing elements in a variety of patterns.
Approaching Basic
<p>Students scoring at the Approaching Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. solve whole number problems; 2. demonstrate an understanding of fractions and positive numbers on a number line; 3. choose tools necessary to measure accurately; 4. demonstrate an understanding that a connection between models and mathematical language exists; 5. read tables and graphs; 6. discuss the likelihood of an event occurring in a real-life situation; 7. recognize and classify common two-dimensional figures by attributes; and 8. identify missing elements in a variety of patterns.
Unsatisfactory
<p>Students scoring at the Unsatisfactory level in Mathematics have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. solve whole number problems; 2. demonstrate an understanding of fractions and positive numbers on a number line; 3. choose tools necessary to measure accurately; 4. demonstrate an understanding that a connection between models and mathematical language exists; 5. read tables and graphs; 6. discuss the likelihood of an event occurring in a real-life situation; 7. recognize and classify common two-dimensional figures by attributes; and 8. identify missing elements in a variety of patterns.

Advanced
<p>Students scoring at the Advanced level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. compare and contrast investigations by generating testable questions, identifying variables, and describing experimental designs; 2. select appropriate tools and resources for data collection; analyze data; identify patterns; make inferences; and predict trends; 3. communicate experimental procedures, data, and analyses in a variety of appropriate methods; 4. explain how science is advanced through mathematics, technology, communication, and the work of others; 5. compare/describe properties and phases of matter, the formation of substances, the structure of atoms, and types and sources of energy; 6. compare motion and predict future positions of objects and explain how changes in a light source and an object alter shadows; 7. describe the structural organization of organisms; classify common organisms; and relate cell components to their functions; 8. compare adaptations, metamorphosis, photosynthesis, and respiration in organisms and describe different types of disease transmission; 9. explain why it takes different amounts of time for natural events to occur and compare objects in the solar system; 10. compare the atmosphere, hydrosphere, climate, and weather and explain the water cycle; 11. distinguish between common soils, rocks, and minerals and the processes that prevent or cause erosion; 12. describe different naturally occurring cycles and how changes affect organisms and compare communities within ecosystems; and 13. identify and describe the impact of human activities and common pollutants on local and global ecosystems.
Mastery
<p>Students scoring at the Mastery level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. explain investigations by generating testable questions and identifying variables; 2. select tools and resources for data collection; analyze data; identify patterns; and make inferences; 3. communicate experimental procedures, data, and analyses; 4. describe how science is advanced through mathematics, technology, communication, and the work of others; 5. identify/describe properties and phases of matter, the formation of substances, the structure of atoms, and types and sources of energy; 6. compare, calculate, and graph motion and describe how changes in a light source and an object alter shadows; 7. describe the structural organization of organisms, classify common organisms, and describe cell components and their functions; 8. describe adaptations, metamorphosis, photosynthesis, and respiration in organisms and identify different types of disease transmission; 9. estimate the range of time in which natural events occur and describe the characteristics and movements of objects in the solar system; 10. describe the atmosphere, hydrosphere, climate, weather, and the water cycle; 11. identify rocks, minerals, and components of common soils and the processes that affect erosion; 12. describe different naturally occurring cycles and where they are found in ecosystems and compare communities within ecosystems; and 13. identify and describe the impact of human activities on local ecosystems and identify common pollutants found in water, air, and soil.

Basic

Students scoring at the Basic level in science generally exhibit the ability to:

1. describe an investigation and identify its variables;
2. select tools and resources correctly to collect data; analyze data; and recognize patterns;
3. communicate experimental data and analyses;
4. know and describe how science is continually tested and advanced and that it begins with a review of the work of others;
5. identify/describe properties and phases of matter, the formation of substances, the parts of atoms, and types and sources of energy;
6. calculate and graph motion and identify how changes in a light source and an object alter shadows;
7. identify organizational levels of living things, classify common organisms, and describe cell components and their functions;
8. identify stages of metamorphosis of amphibians, photosynthesis, respiration in plants, and that diseases are transmitted in different ways;
9. identify short- and long-term natural events and identify objects in the solar systems based on their characteristics and movements;
10. identify components of the atmosphere and hydrosphere, examples of climate and weather patterns, and processes of the water cycle;
11. identify common rocks and minerals and components of various soils and recognize processes that affect erosion;
12. identify or describe different naturally occurring cycles, the needs of an organism, and organisms in different ecosystems; and
13. identify and describe the impact of human activities on parts of an ecosystem and identify examples of water and air pollution.

Approaching Basic

Students scoring at the Approaching Basic level in science generally exhibit the ability to:

1. describe an investigation;
2. recognize tools and resources to collect data and know that patterns in data are affected by natural events;
3. communicate experimental data and recognize statements that are not supported by evidence;
4. describe that science is continually advancing and know that investigations generally include the work of others;
5. identify properties and phases of matter, the formation of new substances, protons and electrons, and types of energy;
6. calculate or graph motion and know that changes in a light source and an object alter the size and shape of shadows;
7. recognize the structural organization of living things; use a simple dichotomous key; and describe cell components;
8. recognize that metamorphosis occurs in amphibians; identify photosynthesis or respiration; and recognize that diseases are transmitted;
9. identify objects in the solar system based on their characteristics and movements;
10. identify the atmosphere and hydrosphere, examples of climate and weather patterns, and processes of the water cycle;
11. identify common rocks and minerals; recognize that soil is comprised of different things; and
12. recognize a process that affects erosion;
13. identify different naturally occurring cycles; recognize the characteristics of an organism; and compare organisms in ecosystems; and
14. identify human activities that impact the environment and list examples of various kinds of water and pollution.

Unsatisfactory

Students scoring at the Unsatisfactory level in science have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:

1. describe an investigation;
2. recognize tools and resources to collect data and know that patterns in data are affected by natural events;
3. communicate experimental data and recognize statements that are not supported by evidence;
4. describe that science is continually advancing and know that investigations generally include the work of others;
5. identify properties and phases of matter, the formation of new substances, protons and electrons, and types of energy;
6. calculate or graph motion and know that changes in a light source and an object alter the size and shape of shadows;
7. recognize the structural organization of living things; use a simple dichotomous key; and describe cell components;
8. recognize that metamorphosis occurs in amphibians; identify photosynthesis or respiration; and recognize that diseases are transmitted;
9. identify objects in the solar system based on their characteristics and movements;
10. identify the atmosphere and hydrosphere, examples of climate and weather patterns, and processes of the water cycle;
11. identify common rocks and minerals; recognize that soil is comprised of different things; and recognize a process that affects erosion;
12. identify different naturally occurring cycles; recognize the characteristics of an organism; and compare organisms in ecosystems; and
13. identify human activities that impact the environment and list examples of various kinds of water and pollution.

D. Grade 5 Social Studies Achievement Level Descriptors**Advanced**

Students scoring at the Advanced level in social studies generally exhibit the ability to:

1. analyze, describe, interpret, and use geographical data and tools to explain early American history;
2. analyze the physical structure and natural resources of the United States in terms of regions;
3. locate major landforms and geographic features on a map of the United States;
4. describe and analyze the governmental, economic, and social forces that contribute to migration;
5. describe and compare the impact of the natural environment on human activity;
6. analyze economic activities of American Indian cultures;
7. analyze the economic interdependence of the thirteen original colonies and how economic concepts motivated early explorations;
8. interpret information from varied historical sources and analyze issues and viewpoints presented in graphic or narrative form;
9. analyze the impact of European and African settlements in the Americas through the colonial era and explain how cultures change;
10. analyze the political, social, and economic organization and structure of the thirteen original colonies that became the United States; and
11. describe and differentiate among ancient American empires.

Mastery

Students scoring at the Mastery level in social studies generally exhibit the ability to:

1. interpret and use information from geographical data and tools to explain early American history;
2. explain the impact of the physical structure and natural resources of the United States in terms of regions;
3. locate major landforms and geographic features on a map of the United States;
4. explain the governmental, economic, and social forces that contribute to migration;
5. explain the impact of the natural environment on human activity;
6. describe economic activities of American Indian cultures;
7. describe the economic interdependence of the thirteen original colonies and how economic concepts motivated early explorations;
8. describe varied historical sources and issues and viewpoints presented in graphic or narrative form;
9. describe the impact of Europeans and African settlements in the Americas through the colonial era and explain how cultures change;
10. describe the political, social, and economic organization and structure of the thirteen original colonies that became the United States; and
11. describe ancient American empires.

Basic

Students scoring at the Basic level in social studies generally exhibit the ability to:

1. use geographical data and tools to explain early American history;
2. describe the physical structure and natural resources of the United States in terms of regions;
3. locate major landforms and geographic features on a map of the United States;
4. describe the governmental, economic, and social forces that contribute to migration;
5. describe the impact of the natural environment on human activity;
6. identify examples of economic activities of American Indian cultures;
7. identify the economic interdependence of the thirteen original colonies and how economic concepts motivated early explorations;
8. identify varied historical sources and issues and viewpoints presented in graphic or narrative form;
9. identify European and African settlements in the Americas through the colonial era and explain how cultures change;
10. identify the political, social, and economic organization and structure of the thirteen original colonies that became the United States; and
11. identify various aspects of ancient American empires.

Approaching Basic

Students scoring at the Approaching Basic level in social studies generally exhibit the ability to:

1. identify geographical data and tools relating to early American history;
2. recognize the physical structure and natural resources of the United States in terms of regions;
3. locate major landforms and geographic features on a map of the United States;
4. identify governmental economic and social forces that contribute to migration;
5. recognize the impact of the natural environment on human activity;
6. recognize the economic activities of American Indian cultures;
7. recognize the economic interdependence of the thirteen original colonies and the economic motivations for early explorations;
8. recognize types of historical sources and issues and viewpoints presented in graphic or narrative form;
9. recognize some European and African settlements in the Americas through the colonial era and explain how cultures change;
10. recognize examples of the political, social, and economic organization and structure of the thirteen original colonies; and
11. recognize ancient American empires.

Unsatisfactory

Students scoring at the Unsatisfactory level in social studies have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:

1. identify geographical data and tools relating to early American history;
2. recognize the physical structure and natural resources of the United States in terms of regions;
3. locate major landforms and geographic features on a map of the United States;
4. identify governmental, economic, and social forces that contribute to migration;
5. recognize the impact of the natural environment on human activity;
6. recognize the economic activities of American Indian cultures;
7. recognize the economic interdependence of the thirteen original colonies and the economic motivations for the early explorations;
8. recognize types of historical sources and issues and viewpoints presented in graphic or narrative form;
9. recognize some European and African settlements in the Americas through the colonial era and explain how cultures change;
10. recognize examples of the political, social, and economic organization and structure of the thirteen original colonies; and
11. recognize ancient American empires.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:994 (June 2007).

§1715. Grade 6 Achievement Level Descriptors

A. Grade 6 English Language Arts Achievement Level Descriptors

Advanced
<p>Students scoring at the Advanced level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of a wide variety of words using a range of strategies; 2. demonstrate understanding of what they read using a variety of complex strategies, including inductive reasoning and identifying implied main ideas and supporting details; 3. analyze complex story elements and literary devices and interpret an author's purpose for writing; 4. research a topic by locating and integrating appropriate information from print and electronic sources; 5. identify all parts of a bibliographic entry following a model; 6. use analytical, critical, and/or creative thinking in response to a writing task; 7. construct a response with a sharply focused central idea, effective and logical organization relevant details and information, and a variety of transitions; 8. use vivid words, language, and complex sentence structure to influence the intended audience, enhance meaning, and reflect individual personality; and 9. maintain consistent command of sentence formation, usage, mechanics, and spelling.
Mastery
<p>Students scoring at the Mastery level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify word meanings using a variety of strategies; 2. demonstrate understanding of what they read using a variety of strategies, including making inferences, drawing conclusions, determining main ideas, comparing and contrasting, and predicting; 3. interpret story elements and literary devices; 4. identify an author's implied purpose for writing; 5. research a topic by locating and selecting appropriate information from print and electronic sources; 6. identify all parts of a bibliographic entry following a model; 7. use analytical, critical, and/or creative thinking in response to a writing task; 8. construct a response with a clearly stated central idea, logical organization, and a variety of details and transition; 9. select vocabulary, language, and sentence variety to engage the intended audience and reflect individual personality; and 10. demonstrate reasonable command of sentence formation, usage, mechanics, and spelling.
Basic
<p>Students scoring at the Basic level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of grade-level words using a variety of strategies, including context clues; 2. identify story elements, literary devices, including imagery, and an author's stated purpose for writing; 3. use knowledge of their distinctive characteristics to identify elements of various genres, including fiction, nonfiction, or poetry; 4. demonstrate understanding of information in what they read using basic strategies and simple reasoning skills to analyze grade-appropriate texts, identify stated main ideas and supporting details, and predict the outcome of a story or situation; 5. research a topic by locating information in a variety of commonly used electronic and print reference sources such as newspapers, magazines, brochures, maps, and legends; 6. identify parts of a bibliographic entry for commonly used sources following a model;

Basic
<ol style="list-style-type: none"> 7. use some critical and/or creative thinking in response to a writing task; 8. construct a response with a central idea, observable organization, some supporting details, and some transitions appropriate to the task; 9. demonstrate some audience awareness by using simple sentences and appropriate wording; and 10. demonstrate partial command of sentence formation, usage, mechanics, and spelling.
Approaching Basic
<p>Students scoring at the Approaching Basic level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of commonly used words; 2. demonstrate partial understanding of what they read by identifying literal information and stated main ideas, making limited connections to their own experiences, and drawing conclusions; 3. identify some story elements, literary devices, and the author's stated purpose; 4. research a topic by locating information in commonly used print and electronic resources; 5. identify some parts of a bibliographic entry for commonly used sources following a model; 6. demonstrate a partial response to a writing task; 7. construct a response with an unclear central idea, incomplete organizational pattern, limited supporting details, and simple or no transitions; 8. show minimal audience awareness by using simple or inappropriate vocabulary, language, and sentence structure and little personal style; and 9. demonstrate inconsistent command of sentence formation, usage, mechanics, and spelling.
Unsatisfactory
<p>Students scoring at the Unsatisfactory level in English Language Arts have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate an understanding of what they read; 2. interpret texts and make connections between information in texts and their own experiences; 3. locate information in commonly used resources; 4. develop an appropriate response to a writing task; 5. construct a response with a focused central idea, observable organization, and sufficient supporting details; 6. show audience awareness through use of appropriate vocabulary, varied sentence structure, and personal style; and 7. demonstrate acceptable command of sentence formation, usage, mechanics, and spelling.

B. Grade 6 Mathematics Achievement Level Descriptors

Advanced
<p>Students scoring at the Advanced level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use multiple strategies to solve real-life problems involving positive numbers; 2. use basic number and number theory concepts to determine and describe the relationship between numbers in problem settings; 3. explain procedures involved in solving multi-step problems; 4. use computational strategies to determine and compare measurements of two-dimensional shapes and measures of rate; 5. use appropriate statistical measures and patterns in data to describe trends and make predictions; 6. describe polyhedra using their basic properties; 7. apply concepts, properties, and relationships of basic two-dimensional figures in real-life situations; and 8. use, illustrate, and apply basic concepts of probability.

Mastery
<p>Students scoring at the Mastery level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use models to solve problems involving ratios, proportions, and percents; 2. translate verbal phrases into algebraic expressions and vice versa; 3. demonstrate an intuitive sense of relative sizes of common units of measurement; 4. make predictions regarding tessellations with geometric shapes; 5. apply concepts and properties of basic two-dimensional figures in real-life situations; 6. extend and construct complex arithmetic and geometric patterns presented in multiple formats (tables, charts, sequences, etc.); and 7. use and illustrate basic concepts of probability.
Basic
<p>Students scoring at the Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. estimate and solve real-life problems involving addition and subtraction of fractions and decimals; 2. solve simple proportions using models; 3. find perimeter and area of simple geometric figures graphed on a coordinate grid; 4. name and describe basic two- and three-dimensional geometric shapes; 5. use substitution to evaluate simple algebraic expressions; 6. extend and describe simple arithmetic and geometric patterns; 7. use tools to determine linear measurements in relation to geometric shapes; and 8. recognize basic concepts of probability.
Approaching Basic
<p>Students scoring at the Approaching Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. recognize and identify ratios and percents from a model; 2. complete a simple input/output table; 3. recognize and name basic geometric shapes; 4. recognize common units of length and area; and 5. interpret data from a graph.
Unsatisfactory
<p>Students scoring at the Unsatisfactory level in Mathematics have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. recognize and identify ratios and percents from a model; 2. complete a simple input/output table; 3. recognize and name basic geometric shapes; 4. recognize common units of length and area; and 5. interpret data from a graph.

C. Grade 6 Science Achievement Level Descriptors

Advanced
<p>Students scoring at the Advanced level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. compare and contrast investigations by generating testable questions, identifying variables, and evaluating experimental designs; 2. select a variety of appropriate tools and resources for data collection; analyze data; make inferences; and predict trends; 3. communicate experimental procedures, data, and analyses in a variety of appropriate methods; 4. describe and explain how science is advanced through mathematics, technology, communication, and the work of others;

Advanced
<ol style="list-style-type: none"> 5. identify faulty reasoning, information, communications, or statements that misinterpret or are not supported by evidence; 6. determine mass, volume, and density and recognize that density does not change with the amount of a substance; 7. identify the average atomic masses of given elements, using the periodic table; 8. compare physical and chemical properties and changes and relate the structure and movement of matter to temperature; 9. identify, describe, and compare substances in common materials and chemical reaction and predict the mass of their products; 10. analyze graphs of motion; infer how motion is related to applied forces; and predict future positions and speed of objects; 11. describe, compare, and give examples of different forms of energy, energy changes and interactions, and production and use risks; 12. categorize energy types and evaluate the risks and benefits of their use and production on the environment and economy; and 13. explain how people can conserve and sustain resources and evaluate both the short- and long-term effects of these actions.
Mastery
<p>Students scoring at the Mastery level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. explain investigations by generating testable questions, identifying variables, and comparing experimental designs; 2. select appropriate tools and resources for data collection and analyze data to make inferences and predict trends; 3. communicate experimental procedures, data, and analyses through appropriate methods; 4. describe how science is improved through mathematics, technology, communication, testing, and the work of others; 5. identify faulty reasoning and statements that misinterpret or are not supported by evidence; 6. determine the mass, volume, and density of different amounts of a variety of substances; 7. identify the average atomic masses of given elements, using the periodic table; 8. compare physical and chemical changes and differentiate between physical and chemical properties of a substance; 9. identify and describe substances in materials and chemical reactions and relate phase changes of water to changes in water temperature; 10. compare motion and predict future positions and speed of objects and describe forces acting on objects and predict their effects; 11. describe and give examples of different energy forms, energy changes and interactions, and energy production and use risks; 12. identify and categorize energy types and determine their uses and effects on the environment and economy; and 13. identify, describe, and categorize ways people can conserve and sustain resources.
Basic
<p>Students scoring at the Basic level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. describe investigations by generating testable questions and identifying variables; 2. select appropriate tools and resources to collect and analyze data to evaluate explanations and models and to make inferences; 3. communicate experimental procedures, data, and analyses;

D. Grade 6 Social Studies Achievement Level Descriptors

Basic	
4.	recognize that science is improved by mathematics, technology, and the work of others and is continually tested, revised, and advanced;
5.	identify faulty reasoning and statements that misinterpret or are not supported by evidence;
6.	determine mass and volume and compare the masses of the same volumes of different substances;
7.	identify the average atomic masses of given elements, using the periodic table;
8.	identify physical and chemical properties and changes and describe the temperatures at which changes of the phase of water occurs;
9.	identify substances in common materials and chemical reactions;
10.	compare and construct graphs of motion and identify and describe forces acting on objects;
11.	describe different forms of energy, transformations, and interactions with matter and identify risks associated with energy use; and
12.	identify and categorize energy types and identify and describe ways people can conserve and sustain resources.
Approaching Basic	
Students scoring at the Approaching Basic level in science generally exhibit the ability to:	
1.	describe an investigation and identify its variables;
2.	select tools and resources to collect and use data to evaluate explanations and models;
3.	communicate experimental data and explanations;
4.	describe that science is continually tested, advanced, and improved by the work of others;
5.	recognize statements that are not supported by evidence;
6.	determine the masses and volumes of different substances and identify the atomic masses of given elements, using the periodic table;
7.	identify physical and chemical properties or changes and identify substances in common materials;
8.	recognize that phase changes of water occur at different temperatures;
9.	identify and compare graphs of motion and identify forces acting on objects;
10.	give examples of different energy forms, transformations, and interactions with matter and risks associated with energy use; and
11.	identify categories of energy types and examples of how people can reuse, recycle, and reduce resources.
Unsatisfactory	
Students scoring at the Unsatisfactory level in science have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:	
1.	describe an investigation and identify its variables;
2.	select tools and resources to collect and use data to evaluate explanations and models;
3.	communicate experimental data and explanations;
4.	describe that science is continually tested, advanced, and improved by the work of others;
5.	recognize statements that are not supported by evidence;
6.	determine the masses and volumes of different substances and identify the atomic masses of given elements, using the periodic table;
7.	identify physical and chemical properties or changes and identify substances in common materials;
8.	recognize that phase changes of water occur at different temperatures;
9.	identify and compare graphs of motion and identify forces acting on objects;
10.	give examples of different energy forms, transformations, and interactions with matter and risks associated with energy use; and
11.	identify categories of energy types and examples of how people can reuse, recycle, and reduce resources.

Advanced	
Students scoring at the Advanced level in social studies generally exhibit the ability to:	
1.	apply geographical data and tools, including latitude and longitude, to real-world scenarios;
2.	analyze how the world's physical environment affected human settlement and how political boundaries were established and maintained;
3.	analyze the cultural impact of migration on world history;
4.	analyze the impact of the natural environment on humans in ancient societies;
5.	explain how aspects of Greek and Roman governments have influenced the U.S. government;
6.	analyze historical examples of fundamental economic concepts and how they motivated human interaction;
7.	analyze information on timelines and synthesize information taken from multiple historical source documents;
8.	analyze causes and effects, characteristics, and motivations of historical events as presented in narrative form;
9.	analyze the origins, spread, and effects of major world religions and their empires on European, Asian, and African civilizations; and
10.	analyze human continuity and change from the time of river valley civilizations through the early Middle Ages.
Mastery	
Students scoring at the Mastery level in social studies generally exhibit the ability to:	
1.	manipulate geographical data and tools, including latitude and longitude, to explain real-world scenarios;
2.	explain how the world's physical environment affected human settlement and how political boundaries were established and maintained;
3.	explain the cultural impact of migration on world history;
4.	explain the impact of the natural environment on humans in ancient societies;
5.	describe aspects of Greek and Roman governments that influenced the U.S. government;
6.	explain historical examples of fundamental economic concepts and how they motivated human interaction;
7.	evaluate and manipulate timelines and interpret the differences among multiple historical source documents;
8.	interpret causes and effects, characteristics, and motivations of historical events as presented in narrative form;
9.	interpret the origins, spread, and effects of major world religions and their empires on European, Asian, and African civilizations; and
10.	interpret human continuity and change from the time of river valley civilizations through the early Middle Ages.
Basic	
Students scoring at the Basic level in social studies generally exhibit the ability to:	
1.	use geographical data and tools, including latitude and longitude, to describe real-world scenarios;
2.	describe how the world's physical environment affected human settlement and how political boundaries were established and maintained;
3.	describe the cultural impact of migration on world history;
4.	describe the impact of the natural environment on humans in ancient societies;
5.	identify aspects of Greek and Roman governments that influenced the U.S. government;
6.	describe historical examples of fundamental economic concepts and how they motivated human interaction;
7.	relate information on timelines to historical events and describe information available from multiple historical source documents;
8.	describe causes and effects, characteristics, and motivations of historical events as presented in narrative form;
9.	describe the origins, spread, and effects of major world religions and their empires on Europeans, Asian, and African civilizations; and
10.	describe human continuity and change from the time of river valley civilizations through the early Middle Ages.

Approaching Basic
<p>Students scoring at the Approaching Basic level in social studies generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify geographical data and tools, including latitude and longitude, used to identify real-world scenarios; 2. recognize how the world's physical environment affected human settlement and how political boundaries were established and maintained; 3. identify the cultural impact of migration on world history; 4. recognize the impact of the natural environment on humans in ancient societies; 5. recognize some aspects of Greek and Roman governments that influenced the U.S. government; 6. recognize historic examples of fundamental economic concepts and how they motivated human interaction; 7. identify historical timelines and multiple historical source documents; 8. identify causes and effects, characteristics, and motivations of historical events as presented in narrative form; 9. identify the origins, spread, and effects of major world religions and their empires on European, Asian, and African civilizations; and 10. identify human continuity and change from the time of river valley civilizations through the early Middle Ages.
Unsatisfactory
<p>Students scoring at the Unsatisfactory level in social studies have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. identify geographical data and tools, including latitude and longitude, used to identify real-world scenarios; 2. recognize how the world's physical environment affected human settlement and how political boundaries were established and maintained; 3. identify the cultural impact of migration on world history; 4. recognize the impact of the natural environment on humans in ancient societies; 5. recognize some aspects of Greek and Roman governments that influenced the U.S. government; 6. recognize historic examples of fundamental economic concepts and how they motivated human interaction; 7. identify historical timelines and multiple historical source documents; 8. identify causes and effects, characteristics, and motivations of historical events in narrative form; 9. identify the origins, spread, and effects of major world religions and their empires on European, Asian, and African civilizations; and 10. identify human continuity and change from the time of river valley civilizations through the early Middle Ages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:999 (June 2007).

§1717. Grade 7 Achievement Level Descriptors

A. Grade 7 English Language Arts Achievement Level Descriptors

Advanced
<p>Students scoring at the Advanced level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of words using a variety of strategies, including knowledge of base words and roots; 2. demonstrate understanding of what they read using a variety of complex strategies, including inductive reasoning, identifying implied main ideas and supporting details, and comparing and contrasting literary elements; 3. analyze and interpret complex story elements, literary devices, elements of various genres, and author's purpose; 4. research a topic by selecting and integrating information from multiple print and electronic sources;

Advanced
<ol style="list-style-type: none"> 5. identify all parts of a bibliographic entry following a model; 6. develop a creative, effective and insightful response to a writing task; 7. construct a response with a clearly stated central idea, logical organization, effective and thorough elaboration, and a variety of transitional words and phrases; 8. show audience awareness by selecting vocabulary, language, and sentence structures to engage the audience, enhance meaning, and reflect individual voice or personality; and 9. maintain consistent command of sentence formation, usage, mechanics, and spelling.
Mastery
<p>Students scoring at the Mastery level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify word meanings using a variety of strategies; 2. analyze what they read using a variety of reasoning skills, including deductive reasoning; 3. identify story elements, literary devices, and effect of an author's bias or perspective; 4. use knowledge of the distinctive characteristics of various genres to identify elements; 5. research a topic by locating and selecting information from multiple print and electronic sources; 6. identify all parts of a bibliographic entry following a model; 7. use analytical, critical, and/or creative thinking in response to a writing task; 8. construct a response with a focused central idea, logical organization, sufficient elaboration, and effective transitions; 9. show audience awareness by using language and sentences selected to engage the audience and reflect individual personality; and 10. demonstrate reasonable command of sentence formation, usage, mechanics, and spelling.
Basic
<p>Students scoring at the Basic level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of grade-level words using a variety of strategies; 2. demonstrate understanding of what they read by using basic strategies, including stated main idea and supporting details; 3. identifying cause-effect relationships; sequencing events; and predicting the outcome of a story or situation; 4. identify story elements, including character motivation or plot sequence, some literary devices, and an author's purpose; 5. classify and interpret elements of various genres, including fiction, nonfiction, and poetry; 6. research a topic by locating information in commonly used reference sources; 7. identify parts of a bibliographic entry for commonly used sources following a model; 8. demonstrate an appropriate response to a writing task; 9. construct a response with a central idea, an appropriate organizational pattern, necessary details, and simple transitions; 10. demonstrate limited audience awareness by using simple sentences and vocabulary; and 11. demonstrate partial command of sentence formation, usage, mechanics, and spelling.
Approaching Basic
<p>Students scoring at the Approaching Basic level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of commonly used words using a variety of strategies, including context clues; 2. demonstrate some understanding of what they read in grade-appropriate texts using simple strategies such as making predictions; 3. identify basic story elements and some literary devices;

Approaching Basic	
4.	identify some elements of various genres, including fiction, nonfiction, or poetry;
5.	research a topic by locating information in commonly used resources;
6.	identify some parts of a bibliographic entry following a model;
7.	demonstrate a limited response to a writing task;
8.	construct a response with an unclear central idea, a weak organizational pattern, minimal supporting details, and simple or no transitions;
9.	show limited audience awareness through the use of simple or inappropriate vocabulary and sentences; and
10.	demonstrate inconsistent or little command of sentence formation, usage, mechanics, and spelling.
Unsatisfactory	
Students scoring at the Unsatisfactory level in English Language Arts have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:	
1.	demonstrate an understanding of what they read;
2.	make interpretations and extensions of ideas in texts;
3.	make connections between information in texts and their own experiences;
4.	locate information in commonly used sources;
5.	develop an appropriate response to a writing task;
6.	construct a response with a focused central idea, observable organization, and sufficient supporting details;
7.	show audience awareness through use of appropriate vocabulary, varied sentence structure, and personal style; and
8.	demonstrate acceptable command of sentence formation, usage, mechanics, and spelling.

B. Grade 7 Mathematics Achievement Level Descriptors

Advanced	
Students scoring at the Advanced level in Mathematics generally exhibit the ability to:	
1.	translate problems into and solve two-step equalities and inequalities;
2.	evaluate algebraic expressions containing exponents and square roots;
3.	apply proportional reasoning to solve complex problems including applications and comparisons involving positive rational numbers;
4.	understand and draw conclusions based on the relationship between measures of polygons and circles, such as change in perimeter vs. change in area and change in radius vs. change in circumference;
6.	determine trends and make predictions based on various displays of discrete and continuous data;
7.	describe basic exponential sequences and patterns and describe and apply rules used to determine function outputs, given their inputs;
8.	order and compare measurements within and between measurement systems, including temperature; and
9.	apply concepts of transformations involving reflections and translations on a coordinate grid.

Mastery	
Students scoring at the Mastery level in Mathematics generally exhibit the ability to:	
1.	solve multi-step problems involving non-negative rational numbers and negative integers;
2.	evaluate simple algebraic expressions using substitution;
3.	describe the angle and measurement properties of polygons and circles;
4.	graph solutions of equations and inequalities and make comparisons of positive rational numbers on a number line;
5.	determine area and perimeter of simple composite geometric shapes;
6.	describe rules used to determine various arithmetic and geometric sequences;
7.	describe and interpret a variety of graphs that display discrete and continuous data;
8.	determine experimental probability; and
9.	order measurements within and between measurement systems.
Basic	
Students scoring at the Basic level in Mathematics generally exhibit the ability to:	
1.	solve one- and two-step equations and inequalities;
2.	calculate circumference and area of circles;
3.	estimate and compute equivalent fractions, percents, and decimals;
4.	recognize and extend patterns involving fractions and negative numbers;
5.	convert between common measurements in the same system;
6.	draw and identify angles and measurements in simple polygons and circles;
7.	demonstrate a conceptual understanding of the differences between discrete and continuous data;
8.	compute simple probabilities and use basic mathematical terms associated with probability, such as event and favorable outcomes; and
9.	recognize geometric transformations.
Approaching Basic	
Students scoring at the Approaching Basic level in Mathematics generally exhibit the ability to:	
1.	solve single-step problems involving positive rational numbers;
2.	match algebraic equations and inequalities to verbal statements;
3.	order measurements within the same system;
4.	identify points in all four quadrants of a coordinate grid;
5.	interpret discrete data from a variety of graphs; and
6.	extend simple number patterns.
Unsatisfactory	
Students scoring at the Unsatisfactory level in Mathematics have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:	
1.	solve single-step problems involving positive rational numbers;
2.	match algebraic equations and inequalities to verbal statements;
3.	order measurements within the same system;
4.	identify points in all four quadrants of a coordinate grid;
5.	interpret discrete data from a variety of graphs; and
6.	extend simple number patterns.

C. Grade 7 Science Achievement Level Descriptors

Advanced
<p>Students scoring at the Advanced level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> analyze investigations by researching and evaluating testable questions, dependent and independent variables, and experimental designs; select appropriate tools and resources for data collection and analyze data to evaluate explanations, make inferences, and predict trends; communicate related research, experimental procedures, data, and analyses in a variety of appropriate methods; explain how science is tested, revised, and advanced through problem solving, mathematics, technology, and communications; compare functions of plant and animal cell structures (i.e., organelles) and explain why the life cycles of plants and animals differ; analyze how the cell processes of osmosis, diffusion, respiration, and photosynthesis are necessary for an organism's survival; describe the growth and development of humans from infancy to old age and various factors affecting this development; analyze how the failure of organs or systems affects health and how methods of transferring genetic information impact an organism; analyze factors that affect relationships between organisms in ecosystems and describe how adaptation help species survive; analyze the roles of components in ecosystems, the resources humans derive from ecosystems, and the impact of human activities; compare, describe, or analyze ecosystems by using the movement of energy and the effects of limiting factors and carrying capacity; and compare and contrast the nitrogen and carbon cycles and explain why they are important for the survival of organisms.
Mastery
<p>Students scoring at the Mastery level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> compare investigations by identifying and evaluating testable questions, variables, and experimental designs; select appropriate tools and resources for data collection and analyze data to evaluate explanations, make inferences, and predict trends; communicate experimental procedures, data, and analyses in a variety of appropriate methods; describe how science is tested, revised, and advanced through problem solving, mathematics, technology, and communication; describe functions of plant and animal cell structures (i.e., organelles) and compare the life cycles of plants and animals; compare the cell processes of osmosis and diffusion and respiration and photosynthesis; classify organisms using a dichotomous key and describe the growth and development of humans from infancy to old age; relate the functions of organs, systems, and overall health in sustaining life and describe methods of transferring genetic information; describe and compare relationships between organisms in ecosystems and explain how adaptations help species survive; compare the roles of components in ecosystems, the resources humans derive from ecosystems, and impact of human activities; identify, describe, or explain ecosystems by using the movement of energy and the effects of limiting factors and carrying capacity; and compare and contrast the nitrogen and carbon cycles and explain why they are important for the survival of organisms.

Basic
<p>Students scoring at the Basic level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> describe investigations by comparing or recognizing testable questions, variables, and experimental designs; select appropriate tools and resources for data collection and analyze data to develop explanations, make inferences, and predict trends; communicate experimental procedures, data, and analyses through appropriate methods; describe how science is tested, revised, and advanced through problem solving, mathematics, technology, and communication; differentiate between plants and animals by their cell structures (i.e., organelles) and describe the life cycles of plants and animals; describe the cell processes of osmosis, diffusion, respiration, and photosynthesis; classify organisms using a dichotomous key and describe human growth and development; describe the functions of organs and organ systems and identify methods of transferring genetic information; describe relationships between organisms in ecosystems and how adaptations help species survive; identify the roles of components in ecosystems, the resources humans derive from ecosystems, and the impact of human activities; identify and describe ecosystems by using the movement of energy and the effects of limiting factors carrying capacity; and describe and explain the nitrogen and carbon cycles.
Approaching Basic
<p>Students scoring at the Approaching Basic level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> describe an investigation by identifying testable questions and variables; select tools and resources correctly to collect and analyze data to evaluate explanations and make inferences; communicate experimental procedures, data, and analyses; describe how science is tested, revised, and advanced, and identify that mathematics and technology improve science; identify functions of plant and animal cell structures (i.e., organelles) and describe parts of the life cycles of plants and animals; identify the cell processes of osmosis, diffusion, respiration, and photosynthesis; classify organisms using a dichotomous key and know that different factors affect human growth or development over time; identify functions of organs and identify the role of genetic information in an organism; identify relationships between organisms in ecosystems and recognize adaptations; identify the components of ecosystems as living or nonliving and know that humans' use of ecosystem resources can have impact; identify the roles of organisms in a food chain and factors that limit the carrying capacity and restrict the growth of populations; and identify parts of the nitrogen and carbon cycles.
Unsatisfactory
<p>Students scoring at the Unsatisfactory level in science have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> describe an investigation by identifying testable questions and variables; select tools and resources correctly to collect and analyze data to evaluate explanations and make inferences; communicate experimental procedures, data, and analyses; describe how science is tested, revised, and advanced, and identify that mathematics and technology improve science; identify functions of plant and animal cell structures (i.e., organelles) and describe parts of the life cycles of plants and animals;

Unsatisfactory	
6.	identify the cell processes of osmosis, diffusion, respiration, and photosynthesis;
7.	classify organisms using a dichotomous key and know that different factors affect human growth or development over time;
8.	identify functions of organs and identify the role of genetic information in an organism;
9.	identify relationships between organisms in ecosystems and recognize adaptations;
10.	identify the components of ecosystems as living or nonliving and know that humans' use of ecosystem resources can have impact;
11.	identify the roles of organisms in a food chain and factors that limit the carrying capacity and restrict the growth of populations; and
12.	identify parts of the nitrogen and carbon cycles.

D. Grade 7 Social Studies Achievement Level Descriptors

Advanced	
Students scoring at the Advanced level in social studies generally exhibit the ability to:	
1.	apply geographical data and tools and analyze the impact of the United States' physical structure on historical events;
2.	analyze cultural aspects of the development of the United States and the effects of natural resources on regional differences;
3.	analyze the structure and purposes of government in the world and in the United States;
4.	analyze how ancient governments influenced American democracy and culture;
5.	analyze the U.S. political system from 1781 to 1860 and factors contributing to conflict and cooperation among nations;
6.	analyze the nature of U.S. citizen rights and responsibilities in society;
7.	analyze ideas found in the Mayflower Compact and the Declaration of Independence;
8.	analyze Mercantilism's role in colonization and conflict and U.S. economic activity contributing to international interdependence;
9.	interpret graphic and narrative sources of information;
10.	analyze and interpret the contributions of significant figures and events in U.S. history from 1763 to 1860; and
11.	analyze national continuity and change from the pre-Revolutionary Era through the beginning of the American Civil War.
Mastery	
Students scoring at the Mastery level in social studies generally exhibit the ability to:	
1.	interpret and manipulate geographical data and tools and explain the impact of the United States' physical structure on historic events;
2.	explain the cultural aspects of the development of the United States and the impact of natural resources on regional differences;
3.	explain the structure and purposes of government in the world and in the United States;
4.	explain how ancient governments influenced American democracy and culture;
5.	explain changes in the American political system from 1781 to 1860 and factors contributing to conflict and cooperation among nations;
6.	explain aspects of U.S. citizen rights and responsibilities in society;
7.	explain ideas found in the Mayflower Compact and the Declaration of Independence;

Mastery	
8.	explain Mercantilism's role in colonization and conflict and how U.S. economic activity contributed to international interdependence;
9.	interpret graphic and narrative sources of information;
10.	explain the contributions of significant figures and events in U.S. history from 1763 to 1860; and
11.	explain aspects of national continuity and change from the pre-Revolutionary Era through the beginning of the American Civil War.
Basic	
Students scoring at the Basic level in social studies generally exhibit the ability to:	
1.	use geographical data and tools to explain and describe the impact of the United States' physical structure on historical events;
2.	describe cultural aspects of the development of the United States and the impact of natural resources on regional differences;
3.	describe the structure and purposes of government in the world and in the United States;
4.	explain how ancient governments influenced American democracy and culture;
5.	describe changes in the U.S. political system from 1781 to 1860 and factors contributing to conflict and cooperation among nations;
6.	describe aspects of U.S. citizen rights and responsibilities in society;
7.	explain ideas found in the Mayflower Compact and the Declaration of Independence;
8.	describe Mercantilism's role in colonization and conflict and U.S. economic activity contributing to international interdependence;
9.	explain graphic sources of information and describe the importance of information obtained from narrative sources of information;
10.	describe contributions of significant figures and events in U.S. history from 1763 to 1860; and
11.	describe national continuity and change from the pre-Revolutionary Era through the beginning of the American Civil War.
Approaching Basic	
Students scoring at the Approaching Basic level in social studies generally exhibit the ability to:	
1.	identify geographical data and tools and describe the impact of the United States' physical structure on historical events;
2.	recognize cultural aspects of the development of the United States and the impact of natural resources on regional differences;
3.	identify the structure and purposes of government in the world and in the United States;
4.	identify how ancient governments influenced American democracy and culture;
5.	recognize elements of the U.S. political system from 1781 to 1860 and factors contributing to conflict and cooperation among nations;
6.	describe aspects of U.S. citizen rights and responsibilities in society;
7.	describe ideas found in the Mayflower Compact and the Declaration of Independence;
8.	define Mercantilism's role in colonization and conflict and U.S. economic activity contributing to international interdependence;
9.	identify historical information in graphic form and identify various narrative sources of information;
10.	identify significant personalities and events from 1763 to 1860; and
11.	identify national continuity and change from the Early National Period through the beginning of the American Civil War.

Unsatisfactory

Students scoring at the Unsatisfactory level in social studies have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:

1. identify geographical data and tools and describe the impact of the United States' physical structure on historical events;
2. recognize cultural aspects of the development of the United States and the impact of natural resources on regional differences;
3. identify the structure and purposes of government in the world and in the United States;
4. identify how ancient governments influenced American democracy and culture;
5. recognize elements of the U.S. political system from 1781 to 1860 and factors contributing to conflict and cooperation among nations;
6. describe U.S. citizen rights and responsibilities in society;
7. describe ideas found in the Mayflower Compact and the Declaration of Independence;
8. define Mercantilism's role in colonization and conflict and U.S. economic activity contributing to international interdependence;
9. identify historical information in graphic form and identify various narrative sources of information;
10. identify significant personalities and events from 1763 to 1860; and
11. identify national continuity and change from the Early National Period through the beginning of the American Civil War.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1002 (June 2007).

§1719. Grade 9 Achievement Level Descriptors

A. Grade 9 English Language Arts Achievement Level Descriptors

Advanced

Students scoring at the Advanced level in English Language Arts generally exhibit the ability to:

1. identify meanings of a wide variety of general and technical words using a full range of strategies;
2. demonstrate literal and inferential understanding of what they read by making inferences, predictions, and generalizations; interpreting cause/effect relationships; reasoning inductively and deductively; and making connections of ideas to real-life experiences;
3. analyze, including comparing and contrasting, complex story elements, literary devices, ideas, and an author's purpose and viewpoint;
4. research a topic by selecting and evaluating relevant information from a variety of print and electronic sources;
5. identify accurate parenthetical citations and bibliographic entries using a model;
6. use analytical, critical, and/or creative thinking in response to a writing task;
7. construct a response with a clear central idea, logical and cohesive organization, thorough elaboration with a variety of supporting details; and a variety of varied, effective transitions;
8. demonstrate an awareness of audience through rich creative vocabulary and sentence structure that reflects voice or personality; and
9. maintain consistent command of sentence formation, usage, mechanics, and spelling.

Mastery

Students scoring at the Mastery level in English Language Arts generally exhibit the ability to:

1. identify meanings of a variety of words using a variety of strategies;
2. demonstrate understanding of what they read using a variety of strategies, such as making inferences, predictions, and generalizations; drawing conclusions; determining cause/effect relationships; and reasoning inductively and deductively;
3. interpret and compare/contrast complex story elements, literary devices, ideas, and an author's purpose and viewpoint;
4. use knowledge of the distinctive characteristics of various genres to interpret elements;
5. research a topic by selecting and analyzing information from multiple print and electronic sources;
6. identify accurate parenthetical citations and bibliographic entries using a model;
7. use analytical, critical, and/or creative thinking in response to a writing task;
8. construct a response with a central idea, logical organization, relevant elaboration, and varied, effective transitions;
9. demonstrate an awareness of audience through varied vocabulary and sentence structure; and
10. demonstrate reasonable command of sentence formation, usage, mechanics, and spelling.

Basic

Students scoring at the Basic level in English Language Arts generally exhibit the ability to:

1. identify meanings of grade-level words using various strategies;
2. demonstrate understanding of what they read by identifying ideas and information from texts using various strategies such as sequencing; making simple inferences, predictions, and generalizations; drawing conclusions; and identify stated cause/effect relationships;
3. identify and compare story elements, literary devices, main ideas, and an author's purpose and viewpoint;
4. identify the distinctive characteristics of various genres;
5. research a topic by selecting relevant information from a variety of print and electronic sources;
6. identify accurate bibliographic entries using a model;
7. demonstrate some evidence of critical and/or creative thinking in response to a writing task;
8. construct a response with a central idea, some conscious organization, some supporting information, and simple transitions;
9. demonstrate audience awareness through some variety in vocabulary and sentence structure; and
10. demonstrate partial command of sentence formation, usage, mechanics, and spelling.

Approaching Basic

Students scoring at the Approaching Basic level in English Language Arts generally exhibit the ability to:

1. identify meanings of commonly used words;
2. demonstrate partial understanding of what they read using strategies such as identifying simple sequences, drawing simple conclusions, making predictions and simple generalizations, and identifying stated cause/effect relationships;
3. identify simple literary elements, devices, main ideas, and an author's stated purpose;
4. research a topic by locating and selecting some information from print and electronic sources;
5. identify accurate bibliographic entries for commonly used sources using a model;
6. demonstrate a limited response to a writing task;
7. construct a response with a weak central idea, some evidence of organization, minimal details, and few transitions;
8. demonstrate a limited awareness of audience through selection of simple or inappropriate vocabulary, and lack of sentence variety; and
9. demonstrate little or no command of sentence formation, usage, mechanics, and spelling.

Unsatisfactory
<p>Students scoring at the Unsatisfactory level in English Language Arts have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate an understanding of what they read; 2. identify simple story or literary elements, and elements of an author's style; 3. make simple or broad connections between texts and personal experiences; 4. locate information in commonly used sources; 5. develop an appropriate response to a writing task; 6. construct a response with a focused central idea, an observable organizational pattern, and sufficient supporting details; 7. show audience awareness through use of appropriate vocabulary, varied sentence structure, and personal style; and 8. demonstrate acceptable command of sentence formation usage, mechanics, and spelling.

B. Grade 9 Mathematics Achievement Level Descriptors

Advanced
<p>Students scoring at the Advanced level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. evaluate, simplify, and solve problems involving scientific notations; 2. apply proportional reasoning to model and solve real-life problems involving direct and inverse variation; 3. use a variety of methods to solve problems involving 2 X 2 systems of linear equations; 4. graphically represent the solution of a 2 X 2 system of linear inequalities; 5. determine appropriate units and scales to use when solving measurement problems; 6. perform translations and line reflections in the coordinate plane; 7. translate fluently between tabular, graphical, and algebraic representations of functions; 8. compare, contrast, and describe characteristics of linear functions and basic families of functions; and 9. solve problems involving indirect measurement and express results in terms of the degrees of accuracy and precision.
Mastery
<p>Students scoring at the Mastery level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. evaluate and simplify algebraic expressions involving order of operations with rational numbers; 2. apply proportional reasoning to model and solve real-life problems involving direct variation; 3. represent real-life situations as linear equations or inequalities and find solutions; 4. graphically represent 2 X 2 systems of equations and identify the solution; 5. make measurements based on the degree of precision or accuracy needed; 6. use points to describe translations and line reflections; 7. understand the relationship of the constants and coefficients in a linear function to the graph of the function; and 8. identify and describe the characteristics of families of linear functions.
Basic
<p>Students scoring at the Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. represent numbers as exponential expressions with positive, integral exponents; 2. recognize and graph linear equations and use appropriate terminology to describe and interpret slope, intercept, point, intersection, etc.; 3. understand the language of algebra and make appropriate translations between verbal and symbolic representations; 4. choose appropriate common units (U.S. and metric) to make measurements; 5. draw translations and line reflections in a coordinate system;

Basic
<ol style="list-style-type: none"> 6. solve multi-step equations and inequalities in one variable; and 7. read, organize, construct, and interpret data presented in a variety of formats and make generalizations using these representations.
Approaching Basic
<p>Students scoring at the Approaching Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. perform basic operations with positive rational numbers; 2. locate points on a coordinate grid; 3. use calculators to evaluate polynomials for given values of the variables; 4. make measurements using common (U.S. and metric) measurement units; and 5. follow and interpret processes expressed in flow charts.
Unsatisfactory
<p>Students scoring at the Unsatisfactory level in Mathematics have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. perform basic operations with positive rational numbers; 2. locate points on a coordinate grid; 3. use calculators to evaluate polynomials for given values of the variables; 4. make measurements using common (U.S. and metric) measurement units; and 5. follow and interpret processes expressed in flow charts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1006 (June 2007).

Editor's Note: The following Subchapter is being repromulgated to show new placement.

Subchapter E. iLEAP Assessment Structure **§1721. Content Standards**

A. The iLEAP tests are aligned to Louisiana content standards, benchmarks, and GLEs. They measure student's knowledge of standards by grade spans through norm-referenced tests (NRTs) and criterion-referenced tests (CRTs). The test's format consists of:

1. Survey/Core Battery:
 - a. obtains information that can support instructional decisions made by teachers in the classroom;
 - b. provides information to students and their parents for monitoring student growth from grade to grade;
 - c. examines the yearly progress of grade groups as they pass through the school's curriculum;
2. GLEs/Benchmarks:
 - a. define the knowledge and skills students are expected to master by the end of each grade or high school course;
3. Standards:
 - a. broad goals for what all students in Louisiana should know and be able to do at any grade level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:267 (February 2007), repromulgated LR 33:1007 (June 2007).

§1723. English Language Arts Tests Structure

A. The English Language Arts test includes NRT items from the Survey Battery of the ITBS for grades 3, 5, 6, and 7 and a CRT component. The tests are administered over two days.

1. The (NRT) ITBS Survey Battery component and standards measured at grades 3, 5, 6, and 7 include the following.

- a. Reading:
 - i. vocabulary; and
 - ii. reading comprehension.
- b. Language:
 - i. spelling;
 - ii. capitalization;
 - iii. punctuation; and
 - iv. usage and expression.
- c. Louisiana English language arts standards measured by the NRT components include the following.
 - i. Standard 1. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes.
 - ii. Standard 6. Students read, analyze, and respond to literature as a record of life experiences. This standard is not tested at grade 3.
 - iii. Standard 7. Students apply reasoning and problem-solving skills to their reading, writing, speaking, listening, viewing, and visually representing.
 - iv. Standard 2. Students write competently for a variety of purposes and audiences.
 - v. Standard 3. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting.
- 2. The (CRT) Components and standards measured at grades 3, 5, 6, and 7 include the following:
 - a. writing; and
 - b. using information resources;
 - c. Louisiana English language arts standards measured by the CRT components include the following:
 - i. Standard 2. Students write competently for a variety of purposes and audiences;
 - ii. Standard 5. Students locate, select, and synthesize information from a variety of texts, media, references, and technological sources to acquire and communicate knowledge.
- B. At grade 9, the English language arts test includes a NRT component from the Core Battery of the ITED and a CRT component. The tests are administered over two days.
 - 1. The (NRT) ITED Core Battery components and standards measured include the following:
 - a. vocabulary;
 - b. reading comprehension; and
 - c. language: revising written materials.
 - d. Louisiana English language arts standards measured include the following:
 - i. Standard 1. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes;
 - ii. Standard 2. Students write competently for a variety of purposes and audiences;
 - iii. Standard 3. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting;
 - iv. Standard 6. Students read, analyze, and respond to literature as a record of life experiences; and
 - v. Standard 7. Students apply reasoning and problem-solving skills to their reading, writing, speaking, listening, viewing, and visually representing.
- 2. The Criterion-Referenced (CRT) Components and standards measured include the following:
 - a. writing; and

- b. using information resources;
- c. Louisiana English language arts standards measured by the CRT components include the following:
 - i. Standard 2. Students write competently for a variety of purposes and audiences;
 - ii. Standard 5. Students locate, select, and synthesize information from a variety of texts, media, references, and technological sources to acquire and communicate knowledge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:267 (February 2007), repromulgated LR 33:1007 (June 2007).

§1725. Math Tests Structure

A. At grades 3, 5, 6, and 7 the Math tests include NRT items from the Survey Battery of the ITBS. The tests are administered over one day.

- 1. The NRT Component includes the following:
 - a. multiple-choice items that assess Concepts and Estimation; and
 - b. multiple-choice items that assess Problem Solving and Data Interpretation.
- 2. The CRT Component includes the following:
 - a. multiple-choice items that assess Louisiana's standards, benchmarks, and GLEs. The items include NRT items that align to the Louisiana content standards and GLEs;
 - b. constructed-response items that assess one or more strands, benchmarks, and/or GLEs that require students to demonstrate the connection of the strand to the other strands and to real-life situations.

B. At grade 9, the Math test includes NRT items from the Core Battery of the ITED with the exception of computation. The test is administered over one day.

- 1. The NRT Component includes the following:
 - a. multiple-choice items that assess Math Concepts and Problem-Solving.
- 2. The CRT Component includes the following.
 - a. Multiple-choice items that assess Louisiana standards, benchmarks, and GLEs. This part includes NRT items that align to the Louisiana content standards and GLEs.
 - b. Constructed-response items that involve a number of separate steps and require application of multiple skills. The items are designed to assess one or more of the strands, benchmarks, and/or GLEs that require students to demonstrate the connection of the strand to the other strands and to real-life situations.

C. The NRT and CRT standards measured are:

- 1. Strand N: Number and Number Relations
 - a. Standard. In problem-solving investigations, students demonstrate an understanding of the real number system and communicate the relationships within that system using a variety of techniques and tools;
- 2. Strand A: Algebra
 - a. Standard. In problem-solving investigations, students demonstrate an understanding of concepts and processes that allow them to analyze, represent, and describe relationships among variable quantities and to apply algebraic methods to real-world situations;

3. Strand M: Measurement
a. Standard. In problem-solving investigations, students demonstrate an understanding of concepts, processes, and real-life applications of measurement;

4. Strand G: Geometry
a. Standard. In problem-solving investigations, students demonstrate an understanding of geometric concepts and applications involving one-, two-, and three-dimensional geometry, and justify their findings;

5. Strand D: Data Analysis, Probability, and Discrete Math

a. Standard. In problem-solving investigations, students discover trends, formulate conjectures regarding cause-and-effect relationships, and demonstrate critical-thinking skills in order to make informed decisions;

6. Strand P: Patterns, Relations, and Functions
a. Standard. In problem-solving investigations, students demonstrate an understanding of patterns, relations, and functions that represent and explain real-world situations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:268 (February 2007), repromulgated LR 33:1008 (June 2007).

§1727. Science Tests Structure

A. The Science test includes CRT items and has one session.

1. The Science tests use multiple-choice items to assess concepts and skills in all or part of the five strands of science.

2. The Science test is entirely criterion-referenced. All items are based on Louisiana's content standards and aligned with Louisiana's GLEs.

B. Science is assessed in grades 3, 5, 6, and 7.

1. Grades 3 and 5 tests assess all five science strands.

2. Grade 6 test assesses three of the five science strands. They are as follows:

- a. Science as Inquiry;
- b. Physical Science; and
- c. Science and the Environment.

3. Grade 7 test assesses three of the five science strands. They are as follows:

- a. Science as Inquiry;
- b. Life Science; and
- c. Science and the Environment.

C. Each of the five science strands is associated with a single standard.

1. Strand: Science as Inquiry

a. Standard. Students will do science by engaging in partial and full inquiries that are within their developmental capabilities.

2. Strand: Physical Science

a. Standard. Students will develop an understanding of the characteristics and interrelationships of matter and energy in the physical world.

3. Strand: Life Science

a. Standard. Students will become aware of the characteristics and life cycles of organisms and understand their relationships to each other and their environment.

4. Strand: Earth and Space Science

a. Standard. Students will develop an understanding of the properties of earth materials, the structure of Earth's system, Earth's history, and Earth's place in the universe.

5. Strand: Science and the Environment

a. Standard. In learning environmental science, students will develop an appreciation of the natural environment, learn the importance of environmental quality, and acquire a sense of stewardship. As consumers and citizens, they will be able to recognize how our personal, professional, and political actions affect the natural world.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:269 (February 2007), repromulgated LR 33:1009 (June 2007).

§1729. Social Studies Tests Structure

A. The Social Studies test includes CRT items and has one section.

1. The Social Studies tests use multiple-choice items to assess concepts and skills in all or part of the four content strands: Geography, Civics, Economics, and History.

2. The Social Studies tests is entirely criterion-referenced. All items are based on Louisiana's content standards and aligned with Louisiana's GLEs.

B. Social Studies is assessed in grades 3, 5, 6, and 7 are as follows:

1. Grade 3 assesses all four social studies strands;

2. Grades 5 and 6 assess two of the four social studies strands. They are as follows:

- a. Geography; and
- b. History.

3. Grade 7 assesses three of the four social studies strands. They are as follows:

- a. Geography;
- b. History; and
- c. Civics.

C. The Social Studies strands assessed are as follows.

1. Strand G: Geography: Physical and Cultural Systems

a. Standard. Students develop a spatial understanding of Earth's surface and the processes that shape it, the connections between people and places, and the relationship between man and the environment.

2. Strand C: Civics: Citizenship and Government

a. Standard. Students develop an understanding of the structure and purposes of government, the foundations of the American democratic system, and the role of the United States in the world while learning about the rights and responsibilities of citizenship.

3. Strand E: Economics: Interdependence and Decision Making

a. Standard. Students develop an understanding of fundamental economic concepts as they apply to the interdependence and decision making of individuals, households, businesses, and governments in the United States and the world.

4. Strand H: History: Time, Continuity, and Change

a. Standard. Students develop a sense of historical time and historical perspective as they study the history of their community, state, nation, and world.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:269 (February 2007), repromulgated LR 33:1009 (June 2007).

Chapter 33. Assessment of Special Populations
§3306. Approved Accommodations for Special Education and Section 504 Students.

A. - A.6.a ...

b. No passages, questions, or distractors (multiple choices) of any English language arts test that measures reading comprehension may be signed or cued. Such tests include the Reading and Responding session of LEAP, GEE, and LAA 2, Reading, Part 2 of *i*LEAP grades 3, 5, 6, and 7, Reading Comprehension of *i*LEAP grade 9 and the "old" GEE, Reading session of ELDA, and any others developed to measure this skill. Directions only to these sessions may be signed or cued. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

7 - 8.a. ...

9. Tests Read Aloud. Students may be allowed to have portions of the tests read to them, with the exception of portions designed to measure reading comprehension, which are clearly designated in the *Test Administration Manuals*. No passages, questions, or distractors (multiple choices) of any English language arts assessment that measures reading comprehension may be read aloud. Such tests include the Reading and Responding session of LEAP, GEE, and LAA 2, Reading, Part 2 of *i*LEAP grades 3, 5, 6, and 7, Reading Comprehension of *i*LEAP grade 9 and the "old" GEE, Reading session of ELDA, and any others developed to measure this skill. Directions only to these sessions may be signed or cued. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

10. - 10.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:269 (February 2007), amended LR 33:1010 (June 2007).

§3307. Limited English Proficient Students

A. - C.1.c. ...

d. Tests Read Aloud. Students may be allowed to have portions of the tests read to them, with the exception of portions designed to measure reading comprehension, which are clearly designated in the *Test Administration Manuals*. No passages, questions, or distractors (multiple choices) of any English language arts assessment that measures reading comprehension may be read aloud. Such tests include the Reading and Responding session of LEAP, GEE, and LAA 2, Reading, Part 2 of *i*LEAP grades 3, 5, 6, and 7, Reading Comprehension of *i*LEAP grade 9 and the "old" GEE, Reading session of ELDA, and any others developed to measure this skill. Directions only to these sessions may be signed or cued. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1562 (July 2005), amended LR 32:240 (February 2006), LR 33:264 (February 2007), LR 33:1010 (June 2007).

Weegie Peabody
Executive Director

0706#005

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Control of Emissions of Sulfur Dioxide
(LAC 33:III.1502, 1503, 1507, 1511, and 1513)(AQ271)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.1502, 1503, 1507, 1511, and 1513 (Log #AQ271).

Several sources to which these regulations apply have expressed confusion regarding compliance with the emission limitations, monitoring, recordkeeping, and reporting requirements. This rule clarifies the emission limitations with which an emissions unit must comply, as well as the test methods that an emissions unit must use to verify compliance with the limitations. For sulfur dioxide, Test Method 6 is replaced with Test Method 6C. For oxides of nitrogen, Test Method 7 is replaced with Test Method 7E. These changes are made to more accurately reflect the proper test methods for these pollutants. This rule defines the monitoring, recordkeeping, and reporting requirements applicable to sources subject to any provision of LAC 33:III.1511. Emphasis is placed on the method of compliance for those sources that choose to comply with LAC 33:III.1511.C, which provides for an alternative method of compliance. New criteria are established by which an emissions unit may be determined to be exempt from the provisions of LAC 33:III.Chapter 15 and by which this Chapter may be determined to not apply to an emissions unit. This Chapter no longer applies to sources that emit less than five tons per year of sulfur dioxide. Sources that comply with 40 CFR 75 are exempt from the recordkeeping requirements of this Chapter. This rule changes the method by which an emissions unit may seek a four-hour exemption under LAC 33:III.1507. Rather than wait for approval from the department, the source may instead submit a report after the fact that documents the activity to be exempted. The basis and rationale for this rule are to clarify the regulations and establish proper terms and conditions to facilitate compliance with the regulations.

This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 15. Emission Standards for Sulfur Dioxide

§1502. Applicability

A. The provisions of this Chapter are applicable to the following sources:

1. new or existing sulfuric acid production units;
2. new or existing sulfur recovery plants; and
3. all other single point sources that emit or have the potential to emit 5 tons per year or more of sulfur dioxide into the atmosphere.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1011 (June 2007).

§1503. Emission Limitations and Compliance

A. Sulfuric Acid Plants—New and Existing. The emissions of sulfur dioxide and acid mist from new sulfuric acid production units that commence construction or modification after August 17, 1971, shall be limited to that specified in 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, i.e., 4.0 pounds of SO₂/ton of 100 percent H₂SO₄ (2 kilograms/metric ton) and 0.15 pounds of sulfuric acid mist/ton of 100 percent H₂SO₄ (.075 kilograms/metric ton), respectively (three-hour averages). Emissions from existing units shall be limited as follows:

1. SO₂—not more than 2000 ppm by volume (three-hour average);
2. sulfuric acid mist—not more than 0.5 pounds/ton of 100 percent H₂SO₄ (0.25 kilograms/metric ton) (three-hour average).

B. ...

C. All Other Sources—New and Existing. No person shall discharge gases from the subject sources that contain concentrations of SO₂ in excess of 2,000 parts per million (ppm) by volume at standard conditions (three-hour average), or any applicable Federal NSPS or NESHAP emission limitation, whichever is more stringent. Single point sources that emit or have the potential to emit less than 250 tons per year of sulfur compounds measured as sulfur dioxide may be exempted from the 2,000 ppm(v) limitation by the administrative authority.

D. Compliance

1. The methods listed in Table 4 or any such equivalent method as may be approved by the administrative authority* shall be used to determine compliance with the appropriate emission limitations set forth in Subsections A-C of this Section. These methods shall be used for the following:

- a. initial compliance determinations; and
- b. any additional compliance determinations as requested by the administrative authority.

2. Measurement equipment shall be periodically calibrated to comply with minimal American Bureau of Standards criteria.

3. The data collected from a sulfur dioxide continuous emission monitoring system (CEMS) may be used to determine initial compliance with the sulfur dioxide emission limitations of this Section.

4. As used in this Section a *three-hour average* means the average emissions for any three consecutive one-hour periods (each commencing on the hour), provided that the number of three-hour periods during which the SO₂ limitation is exceeded is not greater than the number of one-hour periods during which the SO₂ limitation is exceeded.

Table 4	
Emissions—Methods of Contaminant Measurement	
Emission	Analytical Method
Particulate	1. Methods 1, 2, 3, 4, 5 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) or §60.8 of 40 CFR Part 60 as incorporated by reference at LAC 33:III.3003.
Sulfur Oxides	1. Seidman, Analytical Chemistry Volume 30, page 1680 (1958), "Determination of Sulfur Oxides in Stack Gases." 2. Shell Development Company method for the Determination of Sulfur Dioxide and Sulfur Trioxide PHS 999 AP-13 Appendix B, pages 85-87, "Atmospheric Emissions Sulfuric Acid Manufacturing Processes." 3. Reich Test for Sulfur Dioxide, "Atmospheric Emissions from Sulfuric Acid Manufacturing Process" PHS 999 AP-13 Appendix B, pages 76-80. 4. The Modified Monsanto Company Method, "Atmospheric Emissions from Sulfuric Acid Manufacturing Process" PHS 999 AP-13, Appendix B, pages 61-67. 5. Test Methods 1, 2, 3, 4, 6C, and 8 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003), or §60.8 of 40 CFR Part 60 as incorporated by reference at LAC 33:III.3003.
Oxides of Nitrogen	1. Test Methods 1, 2, 3, 4, and 7E (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003), or §60.8 of 40 CFR Part 60 as incorporated by reference at LAC 33:III.3003.
Visible Emissions	1. Method 9 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003). 2. Method 22 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003).
Total Fluoride	1. Methods 1, 2, 3, 13A and 13B (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003).
Total Reduced Sulfur (TRS)	1. Method 16 (40 CFR Part 60, Appendix A or §60.8 of 40 CFR Part 60 as incorporated by reference at LAC 33:III.3003). 2. Coulometric titration by method specified in NCASI Atmospheric Quality Improvement Technical Bulletin Number 91 (January 1978).
Sulfuric Acid Mist	1. Test methods 1, 2, 3, 4, 6, and 8 (40 CFR Part 60, Appendix A or §60.8 of 40 CFR Part 60 as incorporated by reference at LAC 33:III.3003).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:374 (April 1992), LR 22:1212 (December 1996), LR 23:1677 (December 1997), LR 24:1284 (July 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1011 (June 2007).

§1507. Exceptions

A. Start-Up Provisions

1. A four-hour (continuous) start-up exemption from the emission limitations of LAC 33:III.1503.A will be authorized by the administrative authority for facilities not subject to 40 CFR 60.82 and 60.83, as incorporated by

reference in LAC 33:III.Chapter 30, that have been shut down.

a. A written report explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emissions shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC), within seven calendar days of the occurrence.

b. The report shall be signed by a responsible official, who shall certify:

i. that the excess emissions were not the result of failure to operate, maintain, or repair equipment in a manner consistent with good engineering practice;

ii. that the excess emissions were not due to error resulting from careless operations;

iii. that the excess emissions were not the result of failure to follow written procedures;

iv. that actions were taken to minimize the duration and magnitude of the excess emissions; and

v. that no ambient air quality standard was jeopardized.

c. All necessary data required to support the certifying statements shall be recorded and retained on-site and made available to department personnel upon request.

2. ...

B. On-Line Operating Adjustments

1. A four-hour (continuous) exemption from emission limitations of LAC 33:III.1503.A will be extended by the administrative authority to facilities not subject to 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition.

a. A written report explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emissions shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, within seven calendar days of the occurrence.

b. The report shall be signed by a responsible official, who shall certify:

i. that the excess emissions were not the result of failure to operate, maintain, or repair equipment in a manner consistent with good engineering practice;

ii. that the excess emissions were not due to error resulting from careless operations;

iii. that the excess emissions were not the result of failure to follow written procedures;

iv. that actions were taken to minimize the duration and magnitude of the excess emissions; and

v. that no ambient air quality standard was jeopardized.

c. All necessary data required to support the certifying statements shall be recorded and retained on-site and made available to department personnel upon request.

2. ...

C. Bubble Concept. The administrative authority* may exempt a source from the emission limitations of LAC 33:III.1503 if the owner or operator demonstrates that a *bubble concept* will be applied as defined in LAC 33:III.111.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:375 (April 1992), LR 23:1678 (December 1997), LR 24:1284 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1011 (June 2007).

§1511. Continuous Emissions Monitoring

A. Except as provided in Subsections C and D of this Section, the owner or operator of any facility subject to the sulfur dioxide emission limitations of this Chapter shall install, calibrate, maintain, and operate a measurement system or systems, installed in accordance with the manufacturers instructions, for continuously monitoring sulfur dioxide concentrations in the effluent of each process subject to this Chapter. *Continuous monitoring* is defined as sampling and recording of at least one measurement in each 15-minute period from the effluent of each affected process or the emission control system serving each affected process.

B. ...

C. As an alternative to continuous monitoring of sulfur dioxide emissions the administrative authority* may approve demonstration of compliance as follows.

1. For combustion units that burn fuel gas or refinery gas, calculate sulfur dioxide emissions by continuously monitoring the fuel hydrogen sulfide content and fuel consumption rate.

2. For any single point source that burns or decomposes sulfur-containing fuel and/or feedstock, calculate sulfur dioxide emissions by monitoring the fuel and/or feedstock consumption rate and determining input sulfur as follows.

a. For fuel supplied from a bulk storage tank, values for input sulfur shall be determined on each occasion that the fuel is transferred to the storage tank from any other source. Fuel consumption rates shall be monitored continuously.

b. For feedstock or any other method of supplying fuel, values for input sulfur shall be determined daily. Fuel consumption rates shall be monitored continuously.

3. As an alternative to Paragraphs C.1 and 2 of this Section, the owner or operator may develop custom schedules and methods for determination of sulfur dioxide emissions based on the design and operation of the emissions unit and characteristics of the feedstock or fuel supply. These custom schedules must be substantiated by data and approved by the administrative authority prior to implementation.

D. The administrative authority shall not require continuous monitoring for:

1. flares;

2. single point sources that have the potential to emit less than 100 tpy of sulfur dioxide;

3. single point sources identified in 40 CFR Part 51, Appendix P; and

4. single point sources subject to the provisions of 40 CFR Part 75—Continuous Emission Monitoring.

E. For sulfuric acid plants, the production rate of H₂SO₄ shall be monitored daily.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:375 (April 1992), amended LR 22:1212 (December 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1012 (June 2007).

§1513. Recordkeeping and Reporting

A. Except as provided in Subsections B-D of this Section, the owner or operator of any facility subject to the provisions of this Chapter shall record and retain at the site for at least two years the data required to demonstrate compliance with this Chapter. All emissions data shall be recorded in the units of the applicable standard using the averaging time of the applicable standard, as follows.

1. CEMS data shall be recorded continuously.
2. Initial and additional compliance determination data shall be recorded upon each occurrence. A report showing the results of any such test shall be submitted no later than 90 days after the completion of the test.
3. For sulfuric acid plants, the production rate of H₂SO₄ shall be recorded daily.

B. The owner or operator of any single point source approved for alternative emissions monitoring in accordance with LAC 33:III.1511.C shall record the appropriate data required to demonstrate compliance as follows.

1. For sources that burn fuel gas or refinery gas in multiple combustion units, maintain continuous records of the fuel hydrogen sulfide content and the fuel consumption rate.
2. For emissions units that burn or decompose sulfur-containing fuel and/or feedstock, maintain continuous records of the fuel and/or feedstock consumption rate and a record of the input sulfur at the following frequencies.
 - a. For fuel supplied from a bulk storage tank, values for input sulfur shall be recorded on each occasion that the fuel is transferred to the storage tank from any other source.
 - b. For feedstock or any other method of supplying fuel, values for input sulfur shall be recorded daily.
3. For an emissions unit with an approved custom schedule, the fuel and/or feedstock consumption rate and input sulfur shall be recorded according to the custom schedule approved by the administrative authority in accordance with LAC 33:III.1511.C.3.

C. The owner or operator of any emissions unit that is not subject to the emissions limitations of this Chapter shall record and retain at the site sufficient data to show annual potential sulfur dioxide emissions from the emissions unit.

D. Compliance with the recordkeeping requirements of 40 CFR Part 75—Continuous Emission Monitoring shall satisfy the recordkeeping provisions of this Section.

E. All compliance data shall be made available to a representative of the department or the U.S. EPA on request. When applicable, compliance data shall be reported to the department annually in accordance with LAC 33:III.918. In addition, quarterly reports of three-hour excess emissions and reports of emergency conditions in accordance with LAC 33:I.Chapter 39 shall be made.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:376 (April 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1671 (August 2004), amended by the

Office of the Secretary, Legal Affairs Division, LR 33:1013 (June 2007).

Herman Robinson, CPM
Executive Counsel

0706#019

RULE

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

**Expedited Permit Processing Program
(LAC 33:I.1801, 1803, 1805, 1807, and 1809)(OS073)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Office of the Secretary regulations, LAC 33:I.1801, 1803, 1805, 1807, and 1809 (Log #OS073).

This Rule provides for an expedited permit processing program and the implementation of the associated permitting fees authorized by Acts 586 and 779 of the 2006 Regular Session of the Louisiana Legislature. This program allows interested applicants who request such processing to reimburse the department for overtime costs incurred by department employees who work overtime to expedite an application for a permit, modification, license, registration, or variance. The statutes also allow the department to hire contractors to perform this work if deemed necessary. Many companies consider environmental permitting timelines when determining where to locate a proposed facility. Expedited permit processing allows the regulated community to act more quickly in response to market demands and conditions. Commencement of any necessary construction and operations may be authorized more expeditiously. This Rule promulgates the provisions of Emergency Rule OS073E, which implemented a pilot program for this service on July 31, 2006. The basis and rationale for this Rule are to shorten the permit processing time by allowing the department to offer paid overtime to employees to expedite the permit processing and recoup the costs of that overtime pay.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

**Subpart 1. Departmental Administrative Procedures
Chapter 18. Expedited Permit Processing Program
§1801. Scope**

A. This Chapter establishes a program to expedite the processing of permits, modifications, licenses, registrations, or variances for environmental permit applicants who may request such services. Expedited processing of an application for a permit, modification, license, registration, or variance is an exercise of the discretion of the

administrative authority and is subject to the availability of resources needed in order to process the permit, modification, license, registration, or variance. Permit actions approved for expedited permit processing must meet all regulatory requirements, including required public comment periods and any required review by other agencies.

B. Eligibility

1. An application for an initial permit or permit modification necessary for new construction as required by the Environmental Quality Act or regulation is eligible for expedited permit processing.

2. An application for permit modification that does not result in new permanent jobs is eligible for expedited processing pursuant to the provisions of this Chapter if it is associated with new construction; includes increases in production that benefit the national, state, or local economy; or provides a direct benefit to the environment.

3. Applications for permit renewal and/or reconciliation will be considered for expedited processing pursuant to the provisions of this Chapter on a case-by-case basis.

4. Applications for permits, modifications, licenses, registrations, or variances under the Solid Waste and Hazardous Waste programs are not eligible for expedited permit processing.

5. A request for expedited permit processing submitted prior to submittal of the associated permit application will not be considered.

6. Requests for exemptions, letters of no objection, and other miscellaneous letters of response are not eligible for expedited permit processing.

C. To the extent practicable, requests proposing new construction and requests that will result in the creation of new permanent jobs will be given highest consideration.

D. Approval of a request for expedited permit processing in no way guarantees issuance of the permit action or issuance of the permit action by the date requested.

E. The department may deny a request for expedited permit processing for any reason, including but not limited to the following:

1. the applicant's failure to pay outstanding fees or penalties;

2. compliance history concerns regarding the applicant;

3. an infeasible date requested for permit action;

4. an insufficient maximum amount the applicant is willing to pay; or

5. insufficient workforce resources available to assign to the task or a request not in line with department priorities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1013 (June 2007).

§1803. Procedures

A. Requests for expedited permit processing shall be submitted using the approved form. The approved form is available on the official website for the department. Hard copies may be obtained from the Office of Environmental Services, Environmental Assistance Division.

B. Within 10 working days after receipt of a request for expedited processing of any permit, modification, license, registration, or variance, the administrative authority shall

issue a decision to grant or deny the expedited processing request.

C. Permit Applications. The following are additional permit application requirements for facilities requesting expedited permit processing.

1. If requested by the department, the applicant shall submit permit application information electronically using the Air Permit Data Upload (APDU) system or any other electronic data submittal program provided by the department.

2. Prior to submittal of a permit application for a new major source, a new synthetic minor source, or a major modification of an existing source, a technical meeting with a representative of the department is recommended to review and discuss the proposed application.

D. Requests for Additional Information

1. If at any time during the review process of an application the administrative authority determines that additional information is necessary, the administrative authority shall notify the applicant and require a response from the applicant within a specified time.

2. The applicant shall respond to the request for additional information within the time specified by the administrative authority. Such a response shall contain all information required by the administrative authority.

3. The administrative authority may cease expedited processing of an application for a permit, modification, license, registration, or variance in accordance with the provisions of this Chapter if the applicant fails to supply the requested additional information by the specified time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1014 (June 2007).

§1805. Fees

A. In addition to the fees charged pursuant to R.S. 30:2014, a fee shall be charged for each application for a permit, modification, license, registration, or variance that is processed on an expedited basis in accordance with the provisions of this Chapter.

1. An appropriate fee shall be computed based on the maximum per hour overtime salary, including associated related benefits, of the civil service employee of the department who performs the work.

2. The fee shall be computed by multiplying the salary figure from Paragraph A.1 of this Section by every overtime hour or portion thereof that a department employee or contractor works on expedited processing of the application for a permit, modification, license, registration, or variance.

3. The applicant may request that the expedited permit processing fee not exceed a maximum amount. If such a maximum amount is established, the number of overtime hours a department employee or contractor works processing the application for a permit, modification, license, registration, or variance shall be limited accordingly. If further processing of the application is required, the department's continued review will not follow the provisions of this Chapter, and the request will no longer be handled on an expedited basis, unless the applicant agrees in writing to pay the expedited fees required to complete the expedited processing of the permit action.

B. In the event that the administrative authority ceases processing an application for a permit, modification, license, registration, or variance in accordance with LAC 33:I.1803.D.3 or Paragraph A.3 of this Section, a fee will be charged for every overtime hour or portion thereof that a department employee or contractor worked on expedited processing of the subject application for a permit, modification, license, registration, or variance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5 and 6.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1014 (June 2007).

§1807. Invoicing and Failure to Pay

A. An invoice for the expedited permit processing fee shall be transmitted to the applicant after the administrative authority has made a decision to grant or deny the permit, modification, license, registration, or variance.

B. If the administrative authority has ceased processing the permit application in accordance with LAC 33:I.1803.D.3 or 1805.A.3, an invoice for the appropriate expedited permit processing fee shall be transmitted to the applicant.

C. Failure to pay the expedited permit processing fee by the due date specified on the invoice constitutes a violation of these regulations and shall subject the applicant to relevant enforcement action under the Louisiana Environmental Quality Act including, but not limited to, revocation or suspension of the permit, modification, license, registration, or variance.

D. A permit appeal, whether by the applicant or a third party, shall not stay the requirement to pay the expedited permit processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5 and 6.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1015 (June 2007).

§1809. Public Notice and Availability of Records

A. Requirement to Provide Public Notice. The department shall provide notice of each request for expedited processing of an application for a permit, modification, license, registration, or variance that is processed pursuant to the provisions of this Chapter.

1. The notice of expedited permit processing shall be provided on the official website for the department.

2. For draft or proposed permit actions subject to public notice requirements under other regulations or program requirements, such public notice shall indicate that the draft or proposed permit was processed under the expedited permit processing provisions of this Chapter.

B. Contents of the Notice

1. The notice on the official website for the department shall contain the name of the applicant/permittee, the agency interest number, the parish in which the facility is physically located, the environmental medium involved, the date the request for expedited processing was received, and the date of the decision to approve or deny the request for expedited processing.

2. For draft or proposed permit actions subject to public notice requirements under other regulations or program requirements, in addition to such requirements, the public notice shall contain a statement that the draft or proposed permit was processed under the expedited permit processing provisions of this Chapter.

C. Availability of Records. All recorded information concerning a request for expedited processing (completed permit application form, fact sheet or statement of basis, draft and proposed permits, or any other public document) not classified as confidential information under R.S. 30:2030(A) or 30:2074(D) or not designated confidential in accordance with applicable regulations shall be made available to the public for inspection and copying in accordance with the Public Records Act, R.S. 44:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1015 (June 2007).

Herman Robinson, CPM
Executive Counsel

0706#021

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Murphy Exploration and Production Delisting
(LAC 33:V.4999)(HW096P)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.4999.Appendix E (Log #HW096P).

Murphy Exploration and Production (Murphy) is petitioning to exclude from the hazardous waste regulations (delist) approximately 6,120 tons of incinerator ash generated and used as fill in 1986 and 1987. This is a one-time delisting that applies to the particular ash (and to any contaminated media associated therewith) used as fill in the Rim Tide barge slip located on a 1.83 acre tract of land near Amelia, Louisiana. The purpose of this delisting petition is to facilitate the excavation and offsite disposal of the ash and any associated contaminated media. The delisting program is regulated by LAC 33:V.105, which includes a formal rulemaking process. The applicants who wish to remove a waste from the list of hazardous wastes must submit a petition and satisfy all requirements of LAC 33:V.105. The department has reviewed Murphy's petition and found that it satisfies the delisting requirements in LAC 33:V.105.M. The department used the Delisting Risk Assessment Software (DRAS) in the evaluation of the impact of the petitioned waste on human health and the environment. The department's action to grant the petition is based on an evaluation of waste-specific information provided by the

petitioner. Based on the information submitted by Murphy, the results of the analytical data, and the results of the DRAS, the department has determined that the nature of this material does not warrant retaining the material as a hazardous waste. The basis and rationale for this rule are to grant the delisting petition based on an evaluation of waste-specific information submitted by Murphy Exploration and Production.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY**

Part V. Hazardous Waste and Hazardous Materials

**Subpart 1. Department of Environmental Quality—
Hazardous Waste**

Chapter 49. Lists of Hazardous Wastes

§4999. Appendices—Appendix A, B, C, D, and E

Appendix A.-Appendix D. ...

Appendix E. Wastes Excluded under LAC 33:V.105.M

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

Table 1 - Wastes Excluded
[See Prior Text in Dupont Dow Elastomers, LLC, LaPlace, LA – Syngenta Crop Protection, Inc., St. Gabriel, LA, (4)(A)]

Table 1 - Wastes Excluded Murphy Exploration and Production Company, Amelia, LA
Hazardous waste incinerator ash was generated by the combustion of hazardous wastes and nonhazardous wastes in a rotary kiln incinerator at Marine Shale Processors in Amelia, Louisiana. In 1986 and 1987, this ash was used as fill material for the Rim Tide barge slip area at Murphy Exploration and Production Company (Murphy) in Amelia, Louisiana. For the purpose of this exclusion, ash used as fill material by Murphy includes all hazardous waste codes listed in LAC 33:V.4901. This is a one-time exclusion for a maximum volume of 6,200 cubic yards of ash subsequent to its excavation from the Rim Tide barge slip area at Murphy for the purpose of transportation and disposal in a Subtitle D landfill after June 20, 2007.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 20:1000 (September 1994), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2397 (December 1999), LR 26:2509 (November 2000), LR 29:1084 (July 2003), repromulgated LR 29:1475 (August 2003), amended by the Office of Environmental Assessment, LR 30:2464 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:445 (March 2007), LR 33:825 (May 2007), LR 33:1016 (June 2007).

Herman Robinson, CPM
Executive Counsel

0706#020

RULE

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

National Source Tracking System
(LAC 33:XV.102, 361, and 399)(RP044ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Radiation Protection regulations, LAC 33:XV.102, 361, and 399 (Log #RP044ft).

This rule is identical to federal regulations found in 10 CFR Parts 20 and 32, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule will update the state radiation regulations to coincide with changes in the federal regulations as required by the Agreement State program. Amendments to 10 CFR Parts 20 and 32 implement the National Source Tracking System (NSTS). As an Agreement State, Louisiana has licensees that are authorized to manufacture sources subject to tracking in the NSTS. Louisiana needs to implement the appropriate actions in the time frame mandated by the Nuclear Regulatory Commission for the tracking of sources. The basis and rationale for this rule are to mirror the federal regulations and maintain an adequate Agreement State program.

This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection**

Chapter 1. General Provisions

§102. Definitions and Abbreviations

As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain chapter may be found in that chapter.

* * *

Nationally Tracked Source—a sealed source containing a quantity equal to or greater than the Category 1 or Category 2 levels of any radioactive material listed in LAC 33:XV.399.Appendix G. In this context a sealed source is defined as radioactive material that is sealed in a capsule or closely bonded, in a solid form, and that is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel

assembly, subassembly, fuel rod, or fuel pellet. Category 1 *nationally tracked sources* are those containing radioactive material at a quantity equal to or greater than the Category 1 threshold. Category 2 *nationally tracked sources* are those containing radioactive material at a quantity equal to or greater than the Category 2 threshold but less than the Category 1 threshold.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 19:1421 (November 1993), LR 20:650 (June 1994), LR 22:967 (October 1996), LR 24:2089 (November 1998), repromulgated LR 24:2242 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2563 (November 2000), LR 26:2767 (December 2000), LR 30:1171, 1188 (June 2004), amended by the Office of Environmental Assessment, LR 31:44 (January 2005), LR 31:1064 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:811 (May 2006), LR 32:1853 (October 2006), LR 33:1016 (June 2007).

Chapter 3. Licensing of Radioactive Material

Subchapter D. Specific Licenses

§361. Registration of Product Information

A. - F.2. ...

G. Serialization of Nationally Tracked Sources. Each licensee who manufactures a nationally tracked source after February 6, 2007, shall assign a unique serial number to each nationally tracked source. Serial numbers must be composed only of alpha-numeric characters.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:45 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005), LR 33:1017 (June 2007).

Subchapter Z. Appendices

§399. Schedules A and B, and Appendices A, B, C, D, E, F, and G

Schedule A. - Appendix F, C.5. ...

Appendix G

Nationally Tracked Source Thresholds

The terabecquerel (TBq) values given in this table are the regulatory standard. The curie (Ci) values specified are obtained by converting the TBq value. The Ci values are provided for practical usefulness only and are rounded after conversion.

Nationally Tracked Source Thresholds				
Radioactive Material	Category 1		Category 2	
	TBq	Ci	TBq	Ci
Actinium-227	20	540	0.2	5.4
Americium-241	60	1,600	0.6	16
Americium-241/Be	60	1,600	0.6	16
Californium-252	20	540	0.2	5.4
Cobalt-60	30	810	0.3	8.1
Curium-244	50	1,400	0.5	14
Cesium-137	100	2,700	1	27
Gadolinium-153	1,000	27,000	10	270
Iridium-192	80	2,200	0.8	22
Plutonium-238	60	1,600	0.6	16
Plutonium-239/Be	60	1,600	0.6	16

Nationally Tracked Source Thresholds				
Radioactive Material	Category 1		Category 2	
	TBq	Ci	TBq	Ci
Polonium-210	60	1,600	0.6	16
Promethium-147	40,000	1,100,000	400	11,000
Radium-226	40	1,100	0.4	11
Selenium-75	200	5,400	2	54
Strontium-90	1,000	27,000	10	270
Thorium-228	20	540	0.2	5.4
Thorium-229	20	540	0.2	5.4
Thulium-170	20,000	540,000	200	5,400
Ytterbium-169	300	8,100	3	81

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 20:180 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2574 (November 2000), LR 27:1228 (August 2001), amended by the Office of Environmental Assessment, LR 31:46 (January 2005), LR 31:1580 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005), LR 32:820 (May 2006), LR 32:1853 (October 2006), LR 33:449 (March 2007), LR 33:1017 (June 2007).

Herman Robinson, CPM
Executive Counsel

0706#022

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Solid Waste Regulations Reorganization
(LAC 33:VII.Chapters 1-30)(SW037)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Solid Waste regulations, LAC 33:VII.Subpart 1 (Log #SW037).

This Rule amends and completely replaces the Solid Waste regulations in LAC 33:VII.Subpart 1. This action is being taken to: reorganize the regulations in a more user-friendly manner; correct errors in text; clarify technical requirements for all solid waste facilities; establish a new category for non-processing transfer stations; incorporate geology and groundwater standards currently required by the department; establish emergency response requirements for Type II and Type III facilities; provide more flexibility regarding characterization of subsurface geology; repeal the beneficial use regulations in Chapter 11, and replace with new language that will not require permitting; and update financial assurance mechanisms for operation, closure, and post-closure care of solid waste management facilities. These amendments are being done in response to complaints from the regulated community and will attempt to make the regulations more user-friendly.

These regulations will be effective for all new submittals, including, but not limited to, new permit applications, permit modifications, and permit renewals, except that the

numbering system of individual sections of permit modifications, permit renewals, and permit applications submitted prior to the effective date of these regulations shall not be affected. Unless otherwise directed in writing by the department, applicants that have submitted complete applications or requests for permits, modifications, or renewals prior to the effective date of these regulations will not be required to revise their previously submitted applications or requests to address these regulations. The basis and rationale for this Rule are to be responsive to the regulated community, to bring technical standards up-to-date, and to ensure the protection of human health and the environment.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 1. General Provisions and Definitions

§101. Scope and Purpose

A. The Louisiana Legislature recognizes that the safety and welfare of citizens "require efficient and reasonable regulation of solid waste disposal practices as well as a coordinated, statewide resource recovery and management program" (R.S. 30:2152). Therefore, the Department of Environmental Quality has formulated these rules and regulations to:

1. establish standards governing the storage, collection, processing, recovery and reuse, and disposal of solid waste;
2. implement a management program that will protect the air, groundwater, and surface water, and the environment from pollution from solid wastes and thus eliminate the potential threat to human health from such pollution;
3. encourage both citizens and industry to reduce the amount of waste developed and generated in the state.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1018 (June 2007).

§103. Authority

A. The Louisiana Environmental Quality Act (R.S. 30:2001 et seq.) established the enforcement authority and procedures for carrying out the purposes of the Act. These rules and regulations were developed under the authority of the secretary of the Department of Environmental Quality, as mandated by the Louisiana Solid Waste Management and Resource Recovery Law (R.S. 30:2151 et seq.). The Louisiana Solid Waste Operator Certification and Training Program statutes (R.S. 37:3151 et seq.) created the Louisiana Solid Waste Operator Certification and Training Program. The principal domicile of the board shall be that of the Department of Environmental Quality.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1018 (June 2007).

§105. Repeals

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repealed by the Office of the Secretary, Legal Affairs Division, LR 33:1018 (June 2007).

§107. Effective Date

A. These rules and regulations shall be effective on June 20, 2007. Unless otherwise directed in writing by the department, applicants that have submitted permit applications or requests for modifications or renewals prior to the effective date of these rules and regulations shall not be required to revise their previously submitted applications or requests to address these rules and regulations. The administrative authority reserves the right to require revisions (limited to numbering and formatting) to previously submitted permit applications, modification requests, or renewals that have not received final approval by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1018 (June 2007).

§109. Severability

A. If any provision of these rules and regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act and these regulations that can be given effect without the invalid provision or application, and to this end provisions of these rules and regulations are declared to be severable.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1018 (June 2007).

§110. Confidentiality [Formerly §309]

A. Provisions for confidential information may be found in LAC 33:I.Chapter 5.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 22:344 (May 1996), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1018 (June 2007).

§111. Review of the Rules and Regulations

A. The department shall review these rules and regulations periodically for their effectiveness in meeting the purposes set forth in LAC 33:VII.101.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1018 (June 2007).

§112. Division of Responsibility
[Formerly §317]

A. The administrative authority is responsible for the following:

1. identifying solid waste processing and disposal facilities;
2. classifying such facilities for closure or upgrade;
3. performing all necessary regulatory operations, including:
 - a. operating the permit system;
 - b. surveillance and monitoring to determine facility compliance; and
 - c. initiating and processing enforcement actions when necessary to meet the purposes of these regulations;
4. soliciting, administering, and distributing federal, state, and other funds; and
5. entering into contracts as necessary to carry out the mandates of the Act.

B. Municipalities, parishes, and regional commissions are responsible for the following:

1. planning and operating necessary collection facilities and collection systems, including recycling programs, and delivering solid waste to permitted processing or disposal facilities;
2. planning and operating permitted processing and/or disposal facilities while cooperating with the department, or other entities, to implement regional management systems;
3. providing necessary financial support for the regional management systems through fees or other means;
4. administering supplementary funds received from federal or state sources through the administrative authority; and
5. entering into contracts when necessary to provide for maximum efficiency of the program.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1019 (June 2007).

§113. Public Information Service

A. Responses to Suggestions and Complaints. The department shall respond to complaints and suggestions and disseminate all pertinent information concerning solid waste. Information shall be disseminated by letter, electronic, or telephone communication in response to direct inquiries and through a departmental bulletin issued periodically that will include lists of permits, enforcement actions, and similar information of general interest, if such a bulletin is available.

B. Public Hearings. A transcript of all discussions, presentations, and comments submitted shall be prepared after each hearing and made available to all who request it, in accordance with R.S. 44:1, et seq.

C. Mailing List. The department shall maintain a mailing list of groups or individuals interested in public hearings and

other such activities of the Office of Environmental Services, Waste Permits Division.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:1019 (June 2007).

§114. Assignment and Reassignment of Responsibilities
[Formerly §319]

A. Assignment of New Responsibilities. The administrative authority may assign to local authorities new responsibilities required to implement elements of the program not assigned in LAC 33:VII.112.B.

B. Reassignment of Responsibilities. The administrative authority may reassign responsibilities within the department or to local authorities in LAC 33:VII.112.B as may be deemed necessary to operate the program more effectively.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2517 (November 2000), repromulgated by Office of the Secretary, Legal Affairs Division, LR 33:1019 (June 2007).

§115. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless the context of use clearly indicates otherwise.

100-Year Flood—a flood that has a one percent or greater chance of occurring in any year, or a flood of a magnitude equaled or exceeded once in 100 years on average over a significantly long period.

Abandonment—to leave behind or desert solid waste at a location without adhering to the proper disposal or processing standards required by these regulations. Storage of solid waste in accordance with the storage standards provided by these regulations does not constitute abandonment.

Access Road—a passageway for vehicles leading from the entrance of a facility to each unit of the facility.

Act—the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.).

Administrative Authority—the secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Agricultural Waste—nonhazardous waste resulting from the production and processing of agricultural products, including manures, prunings, and crop residues. Some examples of *agricultural wastes* are included in LAC 33:VII.3015.Appendix H. This term does not include solid wastes defined as industrial solid waste in this Section.

Air Curtain Destructor—a device that forcefully projects a curtain of air across an open chamber or open pit in which combustion occurs. Destructors of that type can be constructed above or below ground and with or without refractory walls or floor. *Air curtain destructors* are also

referred to as bit burners, trench burners, and air curtain incinerators.

Animal Feed—any crop, such as pasture crops, forage, and grain, grown for consumption by animals.

Applicant—any person who intends to be a standard permit-holder for a solid waste processing and/or disposal facility and who has submitted a permit application to the Department of Environmental Quality.

Aquifer—a continuous geologic formation, group of formations, or part of a formation that contains enough saturated permeable materials to yield significant quantities of water to wells or springs. For the purposes of these regulations, a *significant quantity of water* is enough water to yield a groundwater sample within 24 hours after purging a monitoring well.

Areas Susceptible to Mass Movement—those areas of influence (i.e., areas characterized as having an active or substantial possibility of mass movement) where the movement of earth material at, beneath, or adjacent to the facility, because of natural or man-induced events, results in the downslope transport of soil and rock material by means of gravitational influence. Areas of mass movement include, but are not limited to, landslides, avalanches, debris slides and flows, soil fluctuation, block sliding, and rock fall.

Asbestos-Containing Waste—regulated asbestos-containing material (RACM), as defined in LAC 33:III.5151.B, and/or non-RACM (asbestos-containing material that is not RACM) that is discarded.

Assessment Well—see Monitoring Well.

Assets—all existing and all probable future economic benefits obtained or controlled by a particular entity.

Authority—repealed.

Autoclave—steam sterilization at a temperature of at least 250°F and a pressure of at least 15 pounds per square inch for at least 30 minutes. Longer times are required depending on the amount of waste, the presence of water, and the type of container used. Alternate patterns of temperature, pressure, and time may be used if compatible with the sterilization equipment being used and demonstrably sufficient to kill disease-causing microorganisms.

Background Soil pH—the pH of unimpacted soil in the vicinity of the solid waste facility before the addition of substances that alter the hydrogen-ion concentration (see *Soil pH*).

Bailing—a method of obtaining samples of water from a groundwater monitoring well by lowering and raising a weighted bottle, capped length of pipe, or similar device.

Baler—a facility that mechanically compacts and binds, or wraps, a solid waste into bundles, called bales, for convenient handling, storage, and shipping.

Beneficial Use—the use of waste material for some profitable purpose (e.g., incorporating sludge into soil to amend the soil). Avoidance of processing or disposal cost alone does not constitute beneficial use.

Board of Certification and Training—a board for the certification and training of operators of systems or facilities for the disposal of commercial and residential solid waste (established by R.S. 37:3151 et seq.).

Cation-Exchange Capacity—repealed.

Clean Closure—the act of closing a facility whereby all solid waste is removed, including contamination that results from solid waste placement.

Closure—the act of securing a facility that has been used to process, store, or dispose of solid waste in a manner that minimizes harm to the public and the environment.

Closure Plan—a plan for closure and/or post-closure of a facility prepared in accordance with the requirements of LAC 33:VII.Subpart 1.

Coastal Zone—the coastal waters and adjacent shorelands within the boundaries of the *coastal zone* established by the State and Local Coastal Resources Management Act of 1978 (R.S. 49:213.1-213.12).

Collect—to accumulate industrial solid waste or solid waste generated by more than one household or commercial establishment, or by a storage or processing facility.

Collection Facility—a facility, at which one or more containers are located, that is used to accumulate solid waste generated by and delivered by more than one household or commercial establishment for pickup by a transporter, including, but not limited to, facilities typically located in rural areas where garbage collection does not occur. This definition does not include containers that receive only solid waste generated on property that is contiguous with the property on which the container is located (e.g., containers located at and receiving solid waste only from a multiunit dwelling or a commercial establishment or an industrial establishment).

Commercial Establishment—a business, including its structures and property, that is involved in the exchange or distribution of goods or commodities, or that rents, leases, or sells space for such activities.

Commercial Solid Waste—all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial solid wastes.

Compactor—a solid waste facility, other than collection and transportation vehicles, that reduces a solid waste volume by mechanical compaction to achieve a higher density.

Compost—a solid waste that has undergone biological decomposition of organic matter and has been stabilized using composting or similar technologies, to a degree that is beneficial to plant growth, and that is used, or sold for use, as a soil amendment, artificial topsoil, growing-medium amendment, or other similar uses.

Composting—a controlled process of degrading organic matter with microorganisms.

Composting Facility—a facility where organic matter is processed by natural or mechanical means to aid the microbial decomposition of the organic matter.

Construct—to build, erect, excavate, or form any portion of a solid waste facility.

Construction/Demolition (C&D) Debris—nonhazardous waste generally considered not water-soluble that is produced in the process of construction, remodeling, repair, renovation, or demolition of structures, including buildings of all types (both residential and nonresidential). Solid waste that is not *C&D debris* (even if resulting from the construction, remodeling, repair, renovation, or demolition

of structures) includes, but is not limited to, *regulated asbestos-containing material (RACM)* as defined in LAC 33:III.5151.B, white goods, creosote-treated lumber, and any other item not an integral part of the structure.

Contamination (Environmental)—the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activities.

Contamination (Solid Waste)—the admixture of any solid waste with any amount of hazardous waste, or any other type of waste not meeting the definition of solid waste.

Contingency Plan—an organized, planned, coordinated course of action to be followed in the event of a fire, explosion, natural disaster, or discharge or release of waste into the environment that could endanger human health or the environment.

Contour Lines—lines connecting points of equal elevation used on topographic or other maps.

Cover Material—soil, or other suitable material approved by the administrative authority, applied on the top and side slopes of disposed solid waste to control vectors, gases, erosion, fires, and infiltration of precipitation; to support vegetation; to provide trafficability; or to ensure an aesthetic appearance.

Crops for Human Consumption—crops grown for human consumption that are not processed to minimize pathogens before they are distributed to consumers.

Curing Area—an area where organic material that has undergone the rapid initial stage of composting is further stabilized into a humus-like material.

Current Assets—cash, other assets, or resources commonly identified as those which are reasonably expected to be realized in cash, sold, or consumed during the normal operating cycle of the business.

Current Liabilities—obligations whose liquidation is reasonably expected to require the use of existing resources, properly classifiable as current assets, or the creation of other current liabilities.

Daily Cover—cover material applied at the end of the operating day to a unit, the working face of a unit, or a facility.

Department—the Department of Environmental Quality as created by R.S. 30:2001 et seq.

Disease Vector—animals such as rodents, and fleas, flies, mosquitoes, and other arthropods, that are capable of transmitting diseases to humans.

Displacement—the relative movement of any two sides of a fault measured in any direction.

Disposal—the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste on or into any land or water so that such solid waste, or any constituent thereof, may have the potential for entering the environment or being emitted into the air or discharged into any waters of Louisiana. Abandonment of solid waste, whether or not it comes into contact with land or water, is also considered *disposal*.

Ditch—an earthen trench or excavation principally used to convey wastewaters without regard to whether solids settling or treatment of wastewater occurs therein.

Emergency Exemption—a special authorization issued to a person by the administrative authority that allows freedom from obligation to these regulations or any portion

thereof for a specified period of time, owing to emergencies such as strikes or acts of God.

EPA—the U.S. Environmental Protection Agency.

Estimated Life of Facility—the length of time a solid waste facility is projected to be capable of accepting wastes, based on its current permit or permit application.

Exemption—a special authorization issued to a person by the administrative authority that allows freedom from obligation to these regulations or a portion thereof.

Existing Facility—any *facility*, as defined in this Subsection, that receives solid waste or that exists or is being constructed on February 20, 1993, that does or will store, process, or dispose of solid wastes. (Facilities closed prior to January 20, 1981, or facilities that have completed the closure/post-closure requirements prior to February 20, 1993, are not considered *existing facilities*.)

Existing Operation—any solid waste operation that manages, collects, stores, processes, or receives solid waste that exists or that is being constructed on February 20, 1993. (Operations closed prior to January 20, 1981, or operations that have completed the closure and/or post-closure requirements prior to February 20, 1993, are not considered existing operations.)

Exploration and Production Waste (E&P Waste)—drilling wastes, salt water, and other wastes that are associated with the exploration, development, or production of crude oil or natural gas wells and that are not regulated by the provisions of, and are therefore excluded from, the Louisiana Hazardous Waste Regulations and the Federal Resource Conservation and Recovery Act Subtitle C, as amended.

Facility—actual land and associated appurtenances used for storage, processing, and/or disposal of solid wastes, but possibly consisting of one or more units. (Any earthen ditches leading to or from a unit of a facility and that receive solid waste are considered part of the facility to which they connect, except for ditches lined with materials capable of preventing groundwater contamination. The term *facility* does not necessarily mean an entire industrial manufacturing plant.)

Fault—a fracture or a zone of fractures in any material along which strata on one side have been displaced with respect to those on the other side.

Final Cover—cover material that is applied to minimize the infiltration of precipitation in a facility and revegetated to control erosion.

Final Grade—the maximum elevation allowed by the permit at any given time.

Flood Plain—the lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, that are inundated by the 100-year flood.

Food-Chain Crops—crops grown for human consumption; tobacco; and crops grown to feed animals that are consumed by humans.

Freeboard—the vertical distance between the lowest point of the top of a facility levee and the surface of the liquid waste contained therein.

Freshwater Aquifer—an aquifer containing water with quantities of total dissolved solids of less than 10,000 mg/L that is capable of yielding usable quantities of groundwater

to drinking-water wells, industrial pumps, springs, or streams.

Friable Asbestos Waste—Repealed.

Garbage—solid waste that includes animal and vegetable matter from the handling, preparation, cooking, and serving of foods (including grease trap waste), but that does not include industrial solid waste.

Generator—any person whose act or process produces solid waste as defined in these regulations.

Geotechnical Borehole—an exploratory borehole drilled, augered, bored, or cored to obtain soil samples to be analyzed for chemical and/or physical properties.

Groundwater—water located beneath the ground surface or below a surface water body in a saturated zone or stratum.

Hazardous Waste—waste identified as hazardous in the current Louisiana hazardous waste regulations (LAC 33:V.Subpart 1) and/or by the federal government under the Resource Conservation and Recovery Act and subsequent amendments.

Hazardous Waste Determination—the process performed in accordance with LAC 33:V.1103.

Holocene—the most recent epoch of the Quaternary period, extending from the end of the Pleistocene Epoch, i.e., 10,000 years ago, to the present.

Implement—to carry out, accomplish, and ensure actual fulfillment by specific means or by providing instruments or means of accomplishment.

Implementation Schedule—a timetable for completing a predetermined implementation plan.

Impoundment—see Surface Impoundment.

Inactive (or Abandoned) Facility—a solid waste storage, processing, or disposal facility that no longer receives solid waste and has not been closed in accordance with Louisiana Solid Waste Regulations.

Incinerator—any enclosed device using controlled-flame combustion that neither meets the criteria for classification as a boiler nor is listed as an industrial furnace, and is not a boiler or an industrial furnace as defined in LAC 33:V.109.

Incinerator Ash—residual solid waste that has been received, thermally oxidized, and/or decomposed by an incinerator.

Incinerator Waste-Handling Facility—a facility that processes solid waste which has been received, thermally oxidized, and/or decomposed by an incinerator.

Incorporation into Soil—the injection of solid waste beneath the surface of soil, or the mixing of solid waste with the surface soil.

Industrial Establishment—a business, including its structures and property, that is involved in the production or manufacture of goods or commodities.

Industrial Solid Waste—solid waste generated by a manufacturing, industrial, or mining process, or that is contaminated by solid waste generated by such a process. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products; byproducts; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper

industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; and transportation equipment. This term does not include hazardous waste regulated under the Louisiana hazardous waste regulations or under federal law, or waste that is subject to regulation under the Office of Conservation's Statewide Order No. 29-B or by other agencies.

Industrial Solid Waste Facility—a facility for the processing, storage, and/or disposal of industrial solid waste.

Infectious Waste—waste that contains pathogens of sufficient virulence and quantity that exposure to it could result in an infectious disease in a susceptible host.

Initial Promulgation—the date on which the Louisiana Solid Waste Management Program first became effective, January 20, 1981.

Interim Compacted Cover—a minimum of 2 feet of compacted silty or sandy clay.

Interim Cover—a minimum of 1 foot of soil that is applied to a portion of a unit or a facility.

Isopach—a line drawn on a map through points of equal true thickness of a designated stratigraphic unit or group of stratigraphic units.

Isopach Map—a map that shows the thickness of a bed, formation, sill, or other tabular body throughout a geographic area by means of isopachs at regular intervals.

Karst Terrains—areas where karst topography, with its characteristic surface and subterranean features, is developed as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst terrains include, but are not limited to, sinkholes, sinking streams, caves, large springs, and blind valleys.

Landfarm—a facility for the disposal of solid wastes in which wastes are applied to the land and/or incorporated into the soil for biological reduction and soil attenuation.

Landfill—a facility for the disposal of solid waste, other than landfarm(s) or surface impoundment(s), that disposes of solid waste by placing it on or into the land surface and usually also compacting and covering with suitable cover material to a depth and at a frequency sufficient to control disease vectors and odors and in a manner that protects human health and the environment.

Leachate—a liquid that has passed through or emerged from solid waste and may contain soluble, suspended, or miscible materials removed from such wastes.

Leak-Detection Well—a well used to determine the escape of liquids from a permitted solid waste facility.

Liabilities—probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

Liner—layer or layers of material(s) beneath and on the sides of a solid waste disposal facility that are designed to restrict the escape of wastes or their constituents from the facility.

Liquid Waste—any waste material that is determined to contain free liquids as defined by Method 9095B (Paint Filter Liquids Test), as described in *Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods* (EPA Pub. SW-846).

Lithified Earth Material—all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that

formed by crystallization of magma or by induration of loose sediments. This term does not include man-made materials, such as fill, concrete, and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth's surface.

Litter—exposed solid waste outside the active portion of a unit of a facility.

Lower-Explosive Limit—the lowest percent by volume of a mixture of explosive gases in the air that will propagate a flame at 25 degrees Centigrade and at atmospheric pressure.

Major Modification—any change in a site, facility, process or disposal method, or operation that substantially deviates from the permit or tends to substantially increase the impact of the site, facility, process or disposal method, or operation on the environment.

Mandatory Modification—any change in a site, facility, unit, process or disposal method, or operation that is required as a result of the solid waste regulations as promulgated on February 20, 1993.

Mandatory Modification Document—Repealed.

Manure—a solid waste composed of excreta of animals and any residual materials that have been used for bedding, sanitary, or feeding purposes for such animals.

Maximum Horizontal Acceleration in Lithified Earth Material—the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90 percent or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on a site-specific seismic risk assessment.

Mesophilic Stage—a biological stage in the composting process characterized by active bacteria which favor a moderate temperature range of 20 to 45 degrees Centigrade. It occurs later in the composting process than the thermophilic stage and is associated with a moderate rate of decomposition.

Minor Modification—any modification that does not meet the criteria for a major modification.

Modification—any change in a site, facility, unit, process or disposal method, or operation that deviates from the specifications in the permit. Routine or emergency maintenance that does not cause the facility to deviate from the specifications of the permit is not considered a *modification*. A change in the name of the facility does not constitute a *modification*.

Monitoring Well—any permanent cased hole that is drilled, augered, bored, cored, driven, washed, dug, jetted, or otherwise constructed to obtain hydrologic and water quality data, which is usually installed at or near a known or potential source of groundwater contamination to satisfy regulatory requirements for groundwater monitoring at regulated units.

Municipal Solid Waste Landfill or MSW Landfill—an entire disposal facility in a contiguous geographical space where residential solid waste and/or commercial solid waste is placed in or on land.

Net Worth—total assets minus total liabilities and equivalent to the person's equity.

NGVD—National Geodetic Vertical Datum.

Non-Processing Transfer Station—a solid waste facility where solid waste is transferred from collection vehicles to other vehicles for transportation without processing.

Observation Well—repealed.

Off-Site Location—land, and appurtenances thereon, used for processing and/or disposal of solid waste and not located on, or contiguous to, the property where the waste is generated. Two or more pieces of property that are geographically contiguous but divided by public or private rights-of-way are considered a single site.

Off-Site Processing/Disposal Area—a location for the processing and/or disposal of solid waste that is not on the generator's site.

On-Site Processing/Disposal Area—the land area and appurtenances thereon used for processing and/or disposal of solid waste on the same property or on geographically contiguous property, where waste is generated. Two or more pieces of property that are geographically contiguous but divided by public or private rights-of-way are considered a single site.

Open Burning—the combustion of solid waste without control of combustion air to maintain adequate temperature for efficient combustion, containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and control of the emission of the combustion products.

Open Dump—a solid waste processing or disposal facility that has been issued a temporary permit and may not comply with the standards set by these regulations.

Operating Area—the portion of a facility that is actively involved in the storage, processing, or disposal of solid waste.

Operator—a person who is responsible for the overall operation of a facility or part of a facility.

Order Authorizing Commencement of Operations—a written authorization issued by the administrative authority after a permit-holder has completed all upgrading measures or completed construction measures, provided the required certification and a successful initial start-up inspection has been conducted by a representative of the department.

Owner—a person who owns a facility or part of a facility.

Parent Corporation—a corporation that directly owns at least 50 percent of the voting stock of the corporation that is the facility permit holder; the latter corporation is deemed a "subsidiary" of the *parent corporation*.

Permit—a written authorization issued by the administrative authority to a person for the construction, installation, modification, operation, closure, or post-closure of a certain facility used or intended to be used to process or dispose of solid waste in accordance with the Act, these regulations, and specified terms and conditions.

Permittee/Permit Holder—a person who is issued a permit and is responsible for meeting all conditions of the permit and these regulations at a facility.

Person—an individual, trust, firm, joint-stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of the state, interstate body, or the federal government or any agency of the federal government.

pH—the logarithm of the reciprocal of hydrogen-ion concentration.

Pickup Station—repealed.

Piezometer—a nonpumping well used to measure the elevation of the water table or potentiometric surface.

Pilot Hole—a hole drilled with the intent to install casing and to produce water. It is usually of a smaller diameter than the proposed well and has to be reamed to a larger diameter for the installation of a casing and screen.

Poor Foundation Conditions—those areas where features exist that indicate that a natural or man-induced event may result in inadequate foundation support for the structural components of a facility.

Potable Water—water with bacteriological, physical, and chemical properties that make it suitable for human consumption.

Potentiometric Map—a map displaying contour lines of the potentiometric surface of a particular aquifer that may be used to determine groundwater gradient or direction of flow.

Potentiometric Surface—a surface that represents the level to which groundwater in a particular aquifer or permeable zone will rise in tightly cased wells, expressed with reference to a specified datum, such as the National Geodetic Vertical Datum (NGVD) (see also *Water Table*).

Practices—acts of storing, processing, collecting, transporting, or disposing of solid wastes.

Process—a method or technique, including recycling, recovering, compacting (but not including compacting that occurs solely within a transportation vehicle), composting, incinerating, shredding, baling, recovering resources, pyrolyzing, or any other method or technique that is designed to change the physical, chemical, or biological character or composition of a solid waste to render it safer for transport, reduced in volume, or amenable for recovery, storage, reshipment, or resale. The definition of *process* does not include treatment of wastewaters to meet state or federal wastewater discharge permit limits. Neither does the definition include activities of an industrial generator to simply separate wastes from the manufacturing process.

Promiscuous Dump—a solid waste disposal facility that has resulted from disposal activities of persons other than the landowner and whose operation is not permitted by the administrative authority.

Putrescible—susceptible to rapid decomposition by bacteria, fungi, or oxidation, creating noxious odors.

Reclassified Waste—a particular solid waste that the administrative authority has determined is no longer classified as a hazardous waste subject to regulation under the Louisiana hazardous waste regulations. Such wastes are "reclassified" as solid waste and are subject to regulation under these regulations.

Recovery Well—a well used to remove groundwater that has been determined to be contaminated.

Refuse-Derived Fuel—fuel processed from combustible solid waste.

Refuse-Derived Fuel Facility—a solid waste facility where fuel is processed from combustible solid waste.

Regulated Asbestos-Containing Material (RACM)—see definition in LAC 33:III.5151.B.

Residence—a single or multiunit dwelling, whether owned, leased, or rented by its occupant(s).

Residential Solid Waste—any solid waste (including garbage, trash, yard trash, and sludges from residential septic tanks and wastewater treatment facilities) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas).

Resource Recovery—the process by which solid waste that retains useful physical or chemical properties is reused or recycled for the same or other purposes, including uses as energy sources.

Runoff—any rainwater, leachate, or other liquid that drains from any part of a facility.

Run-On—any rainwater or other liquid that drains onto any part of a facility.

Salvaging—the controlled removal of waste materials for later use.

Sanitary Landfill—repealed.

Saturated Permeable Zone—the subsurface zone in which all interconnected openings are full of liquid.

Scavenging—unauthorized removal of solid waste materials from a disposal or processing facility.

Seismic-Impact Zone—an area with a 10 percent or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull (g), will exceed 0.10 g in 250 years.

Separation Facility—a Type III solid waste processing facility at which recyclables are separated from a nonputrescible solid waste stream for future use. The nonputrescible waste stream received by the separation facility shall not contain more than a de minimis amount of putrescible waste.

Septage—the contents of a septic tank, cesspool, or other individual sewage-treatment facility that receives domestic-sewage wastes.

Service Area—the geographic area serviced by a solid waste facility in which solid waste is generated, collected, and transported for delivery to that solid waste facility.

Sewage Sludge—sludge resulting from treatment of wastewater from publicly or privately owned or operated sewage-treatment plants.

Shredder—a solid waste facility that reduces the particle size of solid waste by grinding, milling, shredding, or rasping.

Site—the physical location, including land area and appurtenances, of an existing or proposed storage, processing, or disposal facility. A *site* may consist of a number of facilities, each subject to a permit to process or dispose of solid waste.

Sludge—residue produced by or precipitated from a treatment process.

Soil pH—a pH value obtained by sampling the soil to the depth of cultivation or solid waste placement. Test methodologies shall be in accordance with *Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods* (EPA Pub. SW-846).

Solid Waste—any garbage, refuse, or sludge from a waste treatment plant, water-supply treatment plant, or air pollution-control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. *Solid waste* does not include solid or dissolved material in domestic sewage; solid or dissolved materials in irrigation-return flows or industrial discharges that are point sources subject to permits under R.S. 30:2074; source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (68 Stat. 923 et seq.), as amended (42

U.S.C. Section 2011 et seq.); or hazardous waste subject to permits under R.S. 30:2171 et seq.

Solid Waste Management System—the entire process of collection, transportation, storage, processing, and disposal of solid waste by any person engaged in such process as a business or by any municipality, authority, trust, parish, or any combination thereof.

Spill—any unauthorized discharge or release of solid waste into or onto the land, air, or water.

Stabilized (Compost)—compost that has at least passed through the thermophilic stage and in which biological decomposition of the solid waste has occurred to a sufficient degree to allow beneficial use.

Standard Permit—written authorization issued by the administrative authority to an applicant who has successfully completed the permit application process for a processing or disposal facility.

Storage—the containment of solid waste on surfaces capable of preventing groundwater contamination in a means not constituting processing or disposal.

Structure Contour Map—a map displaying contour lines on a structural surface such as a stratum, formation boundary, or fault, in order to depict the subsurface configuration.

Surface Application—placement of solid waste onto a landfarm without incorporating it into the soil.

Surface Impoundment—a facility consisting of a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), designed to hold an accumulation of liquid waste and/or sludge, that is not an injection well, landfarm, landfill, or tank. Runoff and containment areas (ROCA) of landfarms are considered to be *surface impoundments*.

Surface-Recharge Zone—an area where a formation or formations that compose an aquifer intersect the land surface and receive water from percolation, precipitation, or surface-water bodies.

Tangible Net Worth—the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents and royalties.

Tank—a stationary device designed to contain an accumulation of solid waste and constructed of nonearthen materials that provide structural support. The term *tank* does not include underground storage tanks as defined by the underground storage tank rules and regulations (LAC 33:Part XI).

Temporary Permit—a written authorization issued by the administrative authority for a specific amount of time to a person for the construction, installation, operation, closure, or post-closure of a particular facility, or operation of an existing facility, used or intended to be used for processing or disposing of solid waste in accordance with the Act, these regulations, and specified terms and conditions.

Test Hole—an exploratory borehole drilled to obtain geologic, hydrologic, or water quality data.

Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods (SW-846)—EPA's official compendium of analytical and sampling methods that has been evaluated and approved for use in complying with

these regulations. EPA Publication SW-846 [Third Edition (November 1986), as amended by Updates I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), III (December 1996), and IIIA (April 1998)]. The Third Edition of SW-846 and Updates I, II, IIA, IIB, and III (Document Number 955-001-00000-1) are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800. Update IIIA is available through EPA's Methods Information Communication Exchange (MICE) Service. MICE can be contacted by phone at (703) 821-4690. Update IIIA can also be obtained by contacting the U.S. Environmental Protection Agency, Office of Solid Waste (5307W), OSW Methods Team, 1200 Pennsylvania Ave, NW, Washington, DC, 20460. Copies of the Third Edition and its updates are also available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4650. Copies may be inspected at the Library, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW, Washington, DC 20460, or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

Thermophilic Stage—a biological stage in the composting process characterized by active bacteria that favor a high temperature range of 45°C to 75°C. It occurs early in the composting process, before the mesophilic stage, and is associated with a high rate of decomposition.

Topographic Map—a map showing the elevation and relief of the land surface using contour lines or spot elevations.

Topsoil—the surface layer of soil, capable of promoting growth of vegetation.

Toxicity Characteristic Leaching Procedure (TCLP)—a method to determine if a waste exhibits hazardous characteristics, conducted in accordance with LAC 33:Part V.

Transfer Station—repealed.

Transfer Station (Non-Processing)—see *Non-Processing Transfer Station*.

Transfer Station (Processing)—a Type I-A or II-A solid waste processing facility where solid waste is transferred from collection vehicles, processed, and placed in other vehicles for transportation (e.g., a facility that separates recyclables from industrial or putrescible waste streams).

Transport—to move industrial solid waste off-site and/or to move solid waste of a commercial establishment or more than one household to a transfer station or processing or disposal facility.

Transporter—any person who moves industrial solid waste off-site and/or who moves solid waste of a commercial establishment or more than one household to a transfer station or processing or disposal facility.

Trash—nonputrescible refuse including, but not limited to, white goods, furniture, and wood and metal goods.

Treatment Zone—the depth in the soil of a landfarm into which solid waste has been incorporated and additional depths to which decomposition is occurring based on site-specific conditions.

TSCA—the Toxic Substances Control Act (15 U.S.C. §2601 et seq. (1976), a federal act that supplements other federal statutes including the Clean Air Act.

Type (of Waste)—a category of waste in a general classification defined for solid waste management purposes (e.g., commercial, industrial, residential).

Type I Facility—a facility used for disposing of industrial solid wastes (e.g., a landfill, surface impoundment, or landfarm). (If the facility is used for disposing of residential or commercial solid waste, it is also a Type II facility.)

Type I-A Facility—a facility used for processing industrial solid waste (e.g., a transfer station (processing), shredder, baler, etc.). (If the facility is used for processing residential or commercial solid waste, it is also a Type II-A facility.)

Type II Facility—a facility used for disposing of residential and/or commercial solid waste (e.g., a landfill, surface impoundment, or landfarm). (If the facility is used for disposing of industrial solid waste, it is also a Type I facility.)

Type II-A Facility—a facility used for processing residential, infectious, or commercial solid waste (e.g., a transfer station (processing), composting municipal solid waste facility, refuse-derived fuel facility, shredder, baler, autoclave, etc.). (If the facility is used for processing industrial solid waste, it is also a Type I-A facility.)

Type III Facility—a facility used for disposing or processing of construction/demolition debris or woodwaste, composting organic waste to produce a usable material, or separating recyclable wastes (e.g., a construction/demolition-debris or woodwaste landfill, separation facility, or composting facility).

Unauthorized Discharge—a continuous, intermittent, or one-time discharge, whether intentional, anticipated, or unanticipated, from any source, permitted or unpermitted, that is in contravention of any provision of the Act or of any permit or license terms and conditions, or of any applicable regulation, compliance schedule, variance, or exemption of the administrative authority.

Unauthorized Dump—a solid waste disposal facility whose operation is not authorized by the administrative authority.

Unit of a Facility—designated area of a facility wherein solid waste is, has been, or will be processed, stored, or disposed of.

Unstable Area—a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a landfill. *Unstable areas* can include poor foundation conditions, areas susceptible to mass movement, and karst terrains.

Upgrade—to bring an existing facility into compliance with applicable regulations.

Uppermost Aquifer—the aquifer nearest the natural ground surface, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary. The uppermost aquifer may or may not be the uppermost water-bearing permeable zone.

Uppermost Water-Bearing Permeable Zone—the permeable zone that occurs nearest the natural ground surface. This zone may or may not be the uppermost aquifer and may act as a potential contaminant pathway.

Vector—see *Disease Vector*.

Water Table—the potentiometric surface of the saturated zone in an unconfined aquifer or confining bed at which the pore pressure is equal to the atmospheric pressure.

Wetlands—those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. *Wetlands* generally include swamps, marshes, bogs, and similar areas.

White Goods—discarded domestic and commercial appliances, such as refrigerators, ranges, washers, and water heaters.

Woodwaste—yard trash and types of waste generated by land and right-of-way clearing operations, sawmills, plywood mills, and woodyards associated with the lumber and paper industry, such as wood residue, cutoffs, wood chips, sawdust, wood shavings, bark, wood refuse, wood-fired boiler ash, wood ash, and plywood or other bonded materials that contain only polyurethane, phenolic-based glues, or other glues that are approved specifically by the administrative authority. Uncontaminated, un-treated or un-painted lumber or wooden pallets are considered woodwaste under this definition.

Working Face—that portion of a landfill where waste is currently being added during the operating day.

Yard Trash—vegetative matter resulting from landscaping, maintenance, or land-clearing operations, including trees and shrubbery, leaves and limbs, stumps, grass clippings, and flowers.

Zone of Incorporation—the depth to which solid waste has been incorporated into the soil of a landfarm.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514, 2609 (November 2000), amended by the Office of Environmental Assessment, LR 31:1576 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1019 (June 2007).

§117. Experimental Operations for New Technologies

A. This Section allows applicants to submit requests allowing for experimental operations for new technology prior to requesting a permit modification (e.g., use of alternate daily cover).

B. Permission may be granted to facilitate experimental operations intended to develop new methods or technology providing strict conformity with these regulations is demonstrated in the request.

C. Experimental operations shall be considered only where significant health, safety, environmental hazards, or nuisances will not be created, and when a detailed proposal is submitted and accepted that sets forth the objectives, procedures, controls, monitoring, reporting, time frame, and other data regarding the experimental operations.

D. Restrictions. Initial experimental operations shall be limited to a maximum of two years. However, the department may renew the request for additional time periods upon a showing by the person that the need for a continuance is valid.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1026 (June 2007).

Chapter 3. Scope and Mandatory Provisions of the Program

§301. Exempted Waste

A. All *solid wastes* as defined by the Act and these regulations are subject to the provisions of these regulations, except as follows:

1. wastes regulated under other authority and not processed or disposed of in solid waste facilities permitted under these regulations, including but not limited to, the following wastes:

a. agricultural-crop residues, aquacultural residues, silvicultural residues, and other agricultural wastes stored, processed, or disposed of on the site where the crops are grown or that are stored, processed, or disposed in accordance with a best management practice plan that has been provided to the Office of Environmental Services, Waste Permits Division, and approved in writing by the Department of Agriculture, and within the jurisdiction of the Department of Agriculture;

b. mining overburden, spoils, tailings, and related solid wastes within the jurisdiction of the Department of Natural Resources, Office of Conservation;

c. produced-waste fluids and muds resulting from the exploration for or production of petroleum and geothermal energy, and all surface and storage waste facilities incidental to oil and gas exploration and production, within the jurisdiction of the Department of Natural Resources, Office of Conservation;

d. uncontaminated dredge or earthen excavation spoil;

e. solid wastes while they are stored at residences or commercial establishments and regulated by local ordinance, or within the jurisdiction of the Department of Health and Hospitals;

f. uncontaminated residues from beneficiation of earthen material;

g. uncontaminated storm water and uncontaminated noncontact cooling water;

h. infectious waste or other hospital or clinic wastes that are not processed or disposed of in solid waste processing or disposal facilities permitted under these regulations; and

i. sewage sludge (including domestic septage) that is generated, treated, processed, composted, blended, mixed, prepared, transported, used, or disposed of in accordance with LAC 33:IX.Chapter 69. Sewage sludge and domestic septage not managed in accordance with LAC 33:IX.Chapter 69 shall be managed in accordance with these regulations;

2. wastes excluded by the definition of *solid waste* in the Act and/or as otherwise specified in the Act, including:

a. hazardous wastes subject to regulation under R.S. 30:2171 et seq.;

b. solid or dissolved material in domestic sewage (such as domestic-oxidation ponds), except separated sludges;

c. solid or dissolved materials in irrigation-return flow;

d. discharges that are downstream from point sources subject to permit under R.S. 30:2074, except waste contained in solid waste facilities prior to the final discharge point, provided, however, that:

i. wastewaters in existing ditches that are downstream of a designated internal state or federal wastewater discharge point are exempt from the definition of *solid waste* if they require no further treatment to meet final state or federal wastewater discharge point permit limits or if they require only pH adjustment to meet final pH permit limits, or suspended solids settling specifically to meet final total suspended solids permit limits;

ii. wastewaters in existing ditches upstream of a designated final state or federal wastewater discharge point that require no further treatment to meet final state or federal permit limits or that only require pH adjustment to meet final pH permit limits, or solids settling specifically to meet total suspended solids permit limits, are exempt from the definition of *solid waste*;

iii. solids or sludges in ditches are exempt from the definition of *solid waste* until such time as such solids or sludges are removed from the ditches for disposal, provided however, that this exclusion from the definition of solid waste only applies to solids and sludges derived from wastewaters described in Clauses A.2.d.i and ii of this Section;

iv. the administrative authority reserves the right to withdraw the exemption for wastewaters in Clauses A.2.d.i and ii of this Section if the wastewaters contribute to groundwater contamination;

e. source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); and

f. compost produced by an individual for his own beneficial use, as provided in R.S. 30:2416.G.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), LR 28:780 (April 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:1027 (June 2007).

§303. Wastes Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations

A. The following solid wastes, when processed or disposed of in an environmentally sound manner, are not subject to the permitting requirements or processing or disposal standards of these regulations:

1. wastes resulting from land and right-of-way clearing (trees, stumps) and disposed of on the site where generated;

2. solid wastes in facilities that have been closed in a manner acceptable to the administrative authority prior to January 20, 1981 (This Paragraph is not intended to require permitting of any facilities that have been closed in a manner acceptable to the administrative authority and which remain closed.);

3. materials such as waste papers, plastics, metals, and glass that are presorted to be recycled or reused and not destined for disposal;

4. uncontaminated earthen materials such as limestone, clays, sands, clamshells, river silt, and uncontaminated residues from beneficiation of earthen materials;

5. brick, stone, reinforced and unreinforced concrete, and asphaltic roadbeds;

6. sludges resulting from the treatment of water at public or privately owned water-supply treatment plants;

7. petroleum-refining catalysts and other materials utilized as feedstocks that are managed at a facility in order to recover these wastes for further use;

8. agricultural wastes, including manures, that are removed from the site of generation by an individual for his own personal beneficial use on land owned or controlled by the individual. The amount of wastes covered by this exemption shall not exceed 10 tons per year (wet-weight) per individual per use location;

9. solid wastes that are treated or disposed of in a hazardous waste treatment or disposal facility that is regulated under LAC 33:Part V;

10. woodwastes that are beneficially-used in accordance with a Best Management Practice Plan approved in writing by the Department of Agriculture and submitted to the Office of Environmental Services, Waste Permits Division, provided that the following requirements are met:

a. the generator shall notify the Office of Environmental Services, Waste Permits Division, of such activity at each site in accordance with LAC 33:VII.401.A;

b. the generator shall submit to the Office of Management and Finance, Financial Services Division, a disposer annual report that reports amounts of woodwastes beneficially-used at each site;

11. solid wastes reused in a manner protective of human health and the environment, as demonstrated by a soil reuse plan or beneficial use plan prepared in accordance with LAC 33:VII.Chapter 11 and approved by the administrative authority;

12. other wastes deemed acceptable by the administrative authority based on possible environmental impact; and

13. spent blasting sand generated from the preparation of unpainted surfaces.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), repromulgated LR 27:703 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:1027 (June 2007).

§305. Facilities Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations

A. The following facilities that are operated in an environmentally sound manner are not subject to the permitting requirements or processing or disposal standards of these regulations:

1. incinerators that receive only on-site-generated commercial solid waste and that have a design rate of no more than 250 pounds per hour;

2. shredders, autoclaves, balers, and compactors that receive no waste volume from off-site sources;

3. facilities that process on-site-generated, nonhazardous, petroleum-contaminated media and debris from underground storage tank corrective action or other remedial activities, including, but not limited to, remedial action resulting from an order issued by the administrative authority in accordance with R.S. 30:2275(E) that involves the processing of solid waste by the facility, provided such processing is completed in less than 12 months and is in accordance with a corrective action plan authorized by the administrative authority.

4. construction/demolition-debris disposal facilities that receive only on-site-generated construction/demolition-debris, provided that the following requirements are met:

a. the facility shall notify the Office of Environmental Services, Waste Permits Division, of such activity in accordance with LAC 33:VII.401.A; and

b. the facility shall submit to the Office of Management and Finance, Financial Services Division, a disposer annual report in accordance with the standards for construction/demolition-debris disposal facilities found in LAC 33:VII.721.B.1;

c. the facility owner shall update the parish mortgage and conveyance records by entering the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with the knowledge of the contents of the facility. An example of the form to be used for this purpose is provided in LAC 33:VII.3011.Appendix F. The facility shall provide the Office of Environmental Services, Waste Permits Division, with a true copy of the document filed and certified by the parish clerk of court;

5. solid waste injection wells that are under the jurisdiction of the Department of Natural Resources, provided, however, that any storage, processing, or disposal (not including injection) incidental to such injection wells is subject to these regulations;

6. industrial facilities that process solid waste by non-destructive and non-thermal means on the site where the waste is generated (i.e., none of the waste is from off-site sources);

7. secondary containment systems (e.g., sumps or dikes) that are designed and operated to contain non-routine spill events (i.e., do not routinely receive solid waste except for de minimus spillage) from manufacturing or product storage areas within an industrial establishment. This exemption does not include secondary containment systems for solid waste disposal units;

8. woodwaste facilities at which only woodwaste is disposed of on property owned by the generator of the woodwaste, provided that the following requirements are met:

a. the facility shall notify the Office of Environmental Services, Waste Permits Division, of such activity in accordance with LAC 33:VII.401.A;

b. the facility shall submit to the Office of Management and Finance, Financial Services Division, a disposer annual report in accordance with the standards for woodwaste disposal facilities in LAC 33:VII.721.B.1;

c. the facility shall comply with applicable Louisiana water quality regulations (LAC 33:Part IX);

d. the facility shall comply with the perimeter barrier, security, and buffer zone requirements in LAC 33:VII.719.B;

9. facilities at which only woodwastes resulting from utility right-of-way clearing are received, provided the following conditions are met:

a. the facility property shall be controlled by the utility company that generates the woodwaste;

b. the facility shall comply with the natural or manmade perimeter barrier and security requirements in LAC 33:VII.719.B;

c. the facility shall not receive solid waste from any source other than the utility company (or its authorized contractors) which generates the waste;

d. the facility shall notify the Office of Environmental Services, Waste Permits Division, of its activities in accordance with LAC 33:VII.401.A;

e. the facility shall submit to the Office of Management and Finance, Financial Services Division, a disposer annual report that accurately estimates volumes of waste disposed in accordance with the standards for woodwaste disposal facilities found in LAC 33:VII.721.B.1; and

f. the facility shall comply with applicable Louisiana water quality regulations (LAC 33:Part IX);

10. ditches that receive nonroutine spillage (i.e., do not routinely receive solid waste except for de minimus spillage) from manufacturing or product storage areas within an industrial establishment. This exemption does not include ditches for solid waste disposal units such as landfills, landfarms, or surface impoundments;

11. recycling facilities, as described in LAC 33:VII.303.A.3, that receive only source-separated recyclables; and

12. hospitals and other health care facilities that store or treat regulated infectious waste generated on-site or that accept waste from off-site wholly- or partly-owned subsidiaries.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264 (June 2000), LR 26:2515, 2609 (November 2000), repromulgated LR 27:703 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:1028 (June 2007).

§307. Exemptions

A. Any person subject to these regulations who generates, collects, stores, transports, processes, or disposes of solid waste may petition the administrative authority for exemption from these regulations or any portion thereof.

1. The administrative authority may provide exemptions from these regulations or any portion thereof when petitions for such are deemed appropriate after consideration of the factors enumerated in Subparagraphs

B.2.a and b of this Section as well as any other pertinent factors.

2. The administrative authority shall make a decision whether or not to grant the exemption requested within 180 days from the date on which the request for exemption was filed, unless a longer time period is agreed upon by mutual consent of the applicant and the administrative authority. In no case shall the time period be greater than one year.

B. Each request for an exemption shall:

1. identify the specific provisions of these regulations from which a specific exemption is sought;

2. provide sufficient justification for the type of exemption sought, that includes, but may not be limited to, the following demonstrations:

a. that compliance with the identified provisions would tend to impose an unreasonable economic, technologic, safety, or other burden on the person or the public as determined by the department; and

b. that the proposed activity will have no significant adverse impact on the public health, safety, welfare, and the environment, and that it will be consistent with the provisions of the Act;

3. include proof of publication of the notice as required in Paragraph C.1 of this Section, except for emergency exemptions.

C. Public Notification of Exemption Requests

1. Persons requesting an exemption shall publish a notice of intent to submit a request for an exemption, except as provided in Paragraph C.2 of this Section. This notice shall be published one time as a single classified advertisement in the legal-notices section of a newspaper of general circulation in the area and parish where the facility is located, and one time as a classified advertisement in the legal-notices section of the official journal of the state. If the facility is in the same parish or area as the official journal of the state, a single classified advertisement in the legal-notices section of the official journal of the state shall be the only public notice required.

2. Persons granted emergency exemptions by the administrative authority shall publish a notice to that effect in the legal-notices section of a newspaper of general circulation in the area and parish where the facility requesting the exemption is located. The notice shall be published one time as a single classified advertisement in the legal-notices section of a newspaper of general circulation in the area and parish where the facility is located, and one time as a classified advertisement in the legal-notices section of the official journal of the state. The notice shall describe the nature of the emergency exemption and the period of time for which the exemption was granted. Proof of publication of the notice shall be forwarded to the Office of Environmental Services, Waste Permits Division, within 60 days after the granting of an emergency exemption.

D. Innovative or Alternate Technology Exemption. Persons requesting an exemption based on innovative or alternate technology shall follow the procedure specified in Subsections A, B, and C, except for Subparagraph B.2.a, of this Section. Requests for exemptions based on innovative technology may be granted by the administrative authority based on the ability of the applicant to make the following demonstrations:

1. the request is based on innovative or alternative technology;

2. the innovative or alternative technology will satisfy all of the applicable standards in LAC 33:Part VII other than those for which the exemption is sought; and

3. the innovative or alternative technology will produce performance or will provide protection that is equivalent or superior to that required by all the standards for which the exemption is sought.

E. No exemptions may be granted for Type II landfills that would allow noncompliance with federal regulations, specifically 40 CFR 257 and 258, as amended on October 9, 1991.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:1029 (June 2007).

NOTE: §309 has moved to §110.

§311. Submittal of Information by Persons Other than Permit Holder or Applicant

A. Documentation must be provided to the Office of Environmental Services, Waste Permits Division, by the permit holder or applicant authorizing other persons to submit information on their behalf.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:1030 (June 2007).

§313. Classification

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repealed by the Office of the Secretary, Legal Affairs Division, LR 33:1030 (June 2007).

§315. Mandatory Provisions

A. Generating, Collecting, Transporting, Storing, Processing, and Disposing of Solid Waste. Solid waste shall be generated, collected, transported, stored, processed, and disposed of only in accordance with these regulations.

B. Storage of Wastes. No solid waste shall be stored or allowed to be stored in a manner that may cause a nuisance or health hazard or detriment to the environment as determined by the administrative authority. Unless authorized or approved by the administrative authority, no solid waste shall be stored or allowed to be stored at an off-site location unless such off-site location is an authorized transfer station or collection, processing, or disposal facility.

C. Processing and Disposal of Solid Waste. Except as otherwise provided in these regulations, all solid waste shall be processed or disposed of at a permitted solid waste facility.

D. Abandonment of Solid Waste. Abandonment of solid waste shall be considered an act of disposal.

E. Access to Facilities. The administrative authority or his representative shall have access to the premises of all facilities used for the management of solid waste for all purposes authorized under R.S. 30:2001 et seq., particularly R.S. 30:2012. These inspections may be conducted during normal operating hours; however, the department reserves the right to conduct inspections before and after operating hours. Upon request of the operator or permit holder, the administrative authority or his representative shall discuss the preliminary findings of any such investigation before leaving the premises.

F. Reporting of Unauthorized Discharge. Any discharge, deposit, injection, spill, dumping, leaking, or placing of solid waste into or on the water, air, or land of the state in contravention of the Act, these regulations, or the terms and conditions of a permit issued thereunder, or any accident, fire, explosion, or other emergency that results in such unauthorized solid waste discharge, shall be reported by any person causing, allowing, or suffering said discharge or by any person with knowledge of the discharge to the Office of Environmental Compliance in accordance with LAC 33:I.Chapter 39.

G. Cleanup of Unauthorized Discharge. The cleanup, isolation, removal, or otherwise rendering safe of solid waste processed or disposed of in a manner not authorized by these regulations, or at a facility not permitted to receive such wastes, shall be conducted in accordance with LAC 33:I.Chapter 13 (RECAP), these regulations, or the terms and conditions of any order issued by the administrative authority. Such orders shall not preclude other enforcement action under R.S. 30:2025.

H. Notice of Fire or Damage to Structures in a Solid Waste Facility. The Office of Environmental Compliance shall be notified within the time frame and in the manner provided in LAC 33:I.3923, when damage to or degradation of any structure of a solid waste facility occurs that would impair the ability of the facility to meet the conditions of its permit, or when any fire occurs in the waste management area at a solid waste facility.

I. Construction with Intent to Operate a Facility. The owner/operator shall provide advance written notice, at least 30 days prior to construction, to the parish governing authority whose jurisdiction may be affected, of the intent to operate a transfer station (processing or non-processing) or other type of facility for the offloading and/or transloading of processed solid waste and sewage sludge destined for disposal.

J. Hazardous or Nuclear Wastes in Solid Waste Facilities. No hazardous waste or nuclear material regulated under the Louisiana hazardous waste rules and regulations or Louisiana radiation regulations shall be processed or disposed of at a solid waste facility except in conformance with those regulations. Collectors, transporters, processors, and disposers of solid waste shall determine, according to approved methods, that the waste is not hazardous before collecting, transporting, processing, or disposing of it.

K. Compliance with Other Regulations. All facilities may be subject to applicable federal and state laws and regulations including, but not limited to, Section 402

(NPDES) and Section 404 (Dredge and Fill) of the Clean Water Act; the Coastal Zone Management Act and Federal Aviation Administration regulations; the National Historic Preservation Act of 1966, as amended; the Endangered Species Act; the Wild and Scenic Rivers Act; the Fish and Wildlife Coordination Act; the Clean Air Act; the Toxic Substances Control Act; the Marine Protection Research and Sanctuary Act; the Resource Recovery and Conservation Act; and the Federal Insecticide, Fungicide, and Rodenticide Act.

L. Contamination of the Waters of the State. No person shall cause, allow, or permit solid waste to be disposed of in such a manner that it enters the waters of the state. This does not apply to discharges into waters of the state in accordance with state or federal wastewater-discharge permits.

M. Prohibition of Open Burning of Solid Waste. Open burning of solid waste is prohibited, except in accordance with R.S. 30:2001 et seq. and LAC 33:III.1109.

N. Spent Bauxite Waste and Byproduct Gypsum and Related Wastes

1. The administrative authority may give special consideration to landfills that receive only byproduct gypsum and related wastes (resulting from the production of phosphoric acid, phosphate fertilizers, and hydrofluoric acid) that is generated on-site, with regard to standards for receipt of liquid waste, standing water, specific design and operation of liners and leachate collection and removal systems, daily cover, and final cover, which may include waiver or modification of these standards.

2. The administrative authority may give special consideration to surface impoundments that receive only spent bauxite waste and related wastes (resulting from production of alumina) that is generated on-site, with regard to standards for liners and final cover, which may include waiver or modification of these standards.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1315 (October 1993), repromulgated LR 19:1421 (November 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), LR 30:1675 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005), LR 33:1030 (June 2007).

NOTE: §317 has moved to §112.

NOTE: §319 has moved to §114.

Chapter 4. Administration, Classifications, and Inspection Procedures for Solid Waste Management Systems **[Formerly Chapter 5.Subchapter A]**

§401. Notification **[Formerly §503]**

A. Persons who generate industrial solid waste and/or persons who transport, process, or dispose of solid waste shall, within 30 days after they become subject to these regulations, notify the Office of Environmental Services, Waste Permits Division, in writing of such activity. A form to be used for notification shall be obtained from the Office

of Environmental Services, Waste Permits Division, or through the department's website.

B. Persons who generate industrial solid waste and persons who transport, process, or dispose of solid waste who have previously notified the department of such activity are not required to renotify, unless changes are warranted.

C. Owners or operators of non-processing transfer stations and collection facilities are required to notify the Office of Environmental Services prior to operation of these types of facilities. Existing facilities that have previously notified are not required to renotify.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1031 (June 2007).

§403. Existing Facilities Classification **[Formerly §505]**

A. Classification

1. Existing facilities that have not been previously regulated, classified, or issued a standard permit shall be classified by the administrative authority to the classification categories of "closure" or "upgrade."

2. Within 120 days after the review and acknowledgment of the notification by the administrative authority, a representative of the department shall perform an on-site investigation of the facility to determine its classification. At the time of the classification inspection, the processor and/or disposer shall provide the representative with a map clearly depicting the location and size of each facility (and units thereof) to be classified and a schematic of the waste entering each unit of a facility to be classified.

3. Within 30 days after the classification inspection, any person who processes or disposes of solid waste shall file with the Office of Environmental Services, Waste Permits Division, a notice of his intent to upgrade or close a facility.

B. Existing Facilities Not Operating under a Standard Permit. All facilities without a standard permit, whether operating or inactive, shall be upgraded or closed in accordance with LAC 33:VII.Subpart 1 unless they have previously been satisfactorily closed in accordance with LAC 33:VII.Subpart 1.

C. Permits for Existing Facilities Operating Without a Standard Permit. All existing solid waste facilities classified for upgrading shall apply for a standard permit according to these regulations.

D. Existing facilities that have not previously been classified or that are not operating under a standard permit shall be classified for upgrade or closure by the following criteria and procedure.

1. Classification criteria are based on compliance with standards detailed in LAC 33:VII.Chapters 5, 7, and 8, with emphasis on the following:

- a. potential for pollution of surface water;
- b. potential for pollution of groundwater;
- c. potential for pollution of air;
- d. location in flood plains or in wetlands;
- e. potential for danger to health due to disease vectors, use of waste-filled lands for food crops, and similar health-related practices;

- f. safety considerations, including danger from explosive gases, from fires, and from birds attracted to the site that might obstruct the glide path of aircraft; and
- g. threat to endangered species.

2. The classification procedure comprises identifying, evaluating, and preliminary classification of facilities.

a. An ongoing effort shall be made to identify all solid waste facilities.

b. The facilities shall be evaluated on the basis of the criteria listed in this Subsection and based on the needs and plans of the facility.

E. Issuance of Temporary Permits

1. The administrative authority may issue a temporary permit for upgrading to persons who process or dispose of solid waste. The temporary permit shall require the submission of a permit application. The temporary permit will allow the facility to continue operations in accordance with an approved interim operational plan pending the standard permit application process.

2. The administrative authority may issue a temporary permit for closure to persons who process or dispose of solid waste. The temporary permit shall require the submission of a closure plan permit application and implementation schedule. The temporary permit may allow the facility to continue operations in accordance with an approved interim operational plan pending the closure process.

3. Temporary permits are subject to annual permit maintenance fees as provided in LAC 33:VII.1505.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1031 (June 2007).

§405. Categorization of Facilities
[Formerly §507]

A. All existing and proposed facilities shall be categorized as defined in LAC 33:VII.115 and as one or more of the following:

- 1. *Type I*—industrial disposal facilities (e.g., landfills, surface impoundments, or landfarms);
- 2. *Type I-A*—industrial processing facilities (e.g., balers, shredders, transfer stations (processing), etc.);
- 3. *Type II*—non-industrial disposal facilities (e.g., landfills, surface impoundments, or landfarms);
- 4. *Type II-A*—non-industrial processing facilities (e.g., composting municipal solid waste facilities, balers, shredders, transfer stations (processing), refuse-derived fuel facilities, autoclaves, etc.); or
- 5. *Type III*—construction/demolition-debris and woodwaste landfills, separation facilities, composting facilities, or other.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1032 (June 2007).

§407. Inspection Types and Procedures
[Formerly §509]

A. Classification Inspection. A classification inspection is required for all existing facilities not previously classified, and each facility's initial classification is based on this inspection. It is performed after the department receives notification of operations (LAC 33:VII.401.A).

B. Compliance Inspections. The department shall inspect each facility and each facility's records periodically to determine the facility's compliance with the terms of standard or temporary permits and these regulations.

C. Initial Start-Up Inspection—Newly Permitted Facilities

1. For existing facilities, the initial start-up inspection shall be made after a standard permit has been issued, all upgrading measures are completed, new activities as a result of upgrade are implemented, and certification is submitted to the Office of Environmental Services, Waste Permits Division, by a professional engineer, licensed in the state of Louisiana, that the facility is constructed and has been upgraded in accordance with the permit.

2. For new facilities, the initial start-up inspection shall be made after a standard permit has been issued, construction measures have been completed, and certification is submitted to the Office of Environmental Services, Waste Permits Division, by a professional engineer, licensed in the state of Louisiana, that the facility is constructed in accordance with the permit.

3. All start-up inspections shall be initiated within 10 working days of receipt of certification by the Office of Environmental Services, Waste Permits Division, unless a longer time period is set by mutual agreement.

4. Within 15 working days after a new or existing facility has undergone the initial start-up inspection, the administrative authority shall either issue an order authorizing commencement of operation or a written notice of deficiency to the permittee, unless a longer time period is set by mutual agreement.

D. Construction Inspections. At least 10 days prior to commencing construction of a liner, leak-detection system, leachate-collection system, or monitoring well at a Type I or Type II facility, the permit holder shall notify the Office of Environmental Services, Waste Permits Division, in writing, of the date on which construction will begin, in order to allow a representative of the division the opportunity to witness the construction.

E. Unit Start-Up Inspections—All Facilities

1. Start-up inspections for new units of a standard permitted facility shall be conducted after completion of all construction measures and after submittal of certification to the Office of Environmental Services, Waste Permits Division, by a professional engineer licensed in the state of Louisiana, that the unit is constructed in accordance with the permit.

2. All start-up inspections shall be initiated within 10 working days of receipt of certification by the Office of Environmental Services, Waste Permits Division.

3. Within 10 working days after a new unit of a facility has undergone a unit start-up inspection, the administrative authority shall issue either an approval of the construction or a notice of deficiency. The unit may commence operation only upon approval of the construction of the unit by the administrative authority.

F. Modification Start-Up Inspections—All Facilities

1. Start-up inspections for modified construction of a standard permitted facility shall be conducted after construction measures of the modification are completed and certification is submitted to the Office of Environmental Services, Waste Permits Division, by a professional engineer

licensed in the state of Louisiana, that the modified feature/unit has been constructed in accordance with the modification approved by the administrative authority and any conditions specified in such approval.

2. After a modified unit/feature of a facility has successfully undergone a start-up inspection and after the permit holder has been notified in writing of this, operation of the modified unit/feature may commence.

G. Closure Inspections. Closure inspections will be conducted within 30 days after the Office of Environmental Services, Waste Permits Division, has received written notice from the permit holder that closure requirements have been met in accordance with the approved closure plan and the permit holder has filed a request for a closure inspection. Closure inspections shall be conducted before backfilling of a facility takes place. The administrative authority reserves the right to determine if a facility has been closed properly.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1032 (June 2007).

Chapter 5. Solid Waste Management System

NOTE: Former Subchapter A has moved to Chapter 4.

Subchapter A. General Standards for Nonpermitted Facilities

[Formerly Chapter 7.Subchapter A]

§501. Standards Governing Industrial Solid Waste Generators

[Formerly §701]

NOTE: Former §501 has been repealed.

A. Annual Reports

1. Generators of industrial solid waste shall submit annual reports to the Office of Management and Finance, Financial Services Division, listing the types and quantities, in wet-weight tons per year, of industrial solid waste they have disposed of off-site.

2. The generator's annual report shall name the transporter(s) who removed the industrial solid waste from the generator's site and the permitted solid waste processing or disposal facility or facilities that processed or disposed of the waste both in and out of state. The form to be used shall be obtained from the department or through the department's website.

3. The reporting period shall be from July 1 through June 30.

4. The report shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

5. Generators of industrial solid waste shall maintain, for two years, all records concerning the types and quantities of industrial solid waste disposed of off-site.

B. Generator Notification and Waste Testing

1. Prior to the initial transport of an industrial solid waste off-site, generators of industrial solid waste shall:

a. submit to the Office of Environmental Services, Waste Permits Division, a generator notification form, which is available on the department's website or by contacting the Office of Environmental Services, Waste Permits Division, that includes analysis, analytical data, and/or process knowledge that confirms that the waste is not a characteristic or listed hazardous waste as defined in LAC 33:Part V or by federal regulations; and

b. obtain an industrial waste code number from the disposal facility.

2. Subsequent movements of the same industrial waste off-site shall not require new waste testing or a new industrial waste code number, unless the process that generates the waste or the characteristics of the waste change. However, the waste characterization data and the waste code required in Paragraph B.1 of this Section shall be maintained by the generator.

C. Except as otherwise provided in these regulations, all solid waste shall be processed or disposed of at a permitted solid waste facility.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1033 (June 2007).

§503. Standards Governing Solid Waste Accumulation and Storage

[Formerly §703]

NOTE: Former §503 has moved to §401.

A. Solid Waste Accumulation

1. No solid waste shall be stored or allowed to be stored long enough to cause a nuisance, health hazard, or detriment to the environment as determined by the administrative authority.

2. Containers used for solid waste shall prevent access by rodents and insects, shall minimize the escape of odors, and shall keep out water.

3. On-site processing or disposal, other than the exclusions provided for in LAC 33:VII.301, 303, or 305, is not allowed on the sites of commercial or industrial generators, unless a permit is obtained.

B. Solid Waste Stored in Tanks

1. Storage tanks shall be designed, constructed, and operated to prevent release of their solid waste contents into the surrounding environment.

2. A storage vessel that is partially buried underground shall meet the definition of *tank* provided in LAC 33:VII.115 in order to be considered a tank; otherwise, it will be considered a surface impoundment.

C. Solid Waste Generated by Offshore or Inland Waterway Facilities

1. The generation point for solid waste transported from offshore and inland waterway facilities shall be the place of delivery of the solid waste to a land-based facility. This facility shall not be considered off-site.

2. Storage of the solid waste shall meet the standards of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1033 (June 2007).

§505. Standards Governing Collectors and Off-Site Transporters of Solid Waste

[Formerly §705]

NOTE: Former §505 has moved to §403.

A. Vehicle Requirements

1. The types and sizes of vehicles shall comply with the regulations and licensing of the Department of Transportation and Development and with applicable local

ordinances governing weight and size for the streets that must be traveled for solid waste pickup.

2. Cover

a. The bodies of vehicles used to transport trees, tree limbs, construction materials, or metals shall contain such waste without allowing materials to fall or blow off the vehicle.

b. The bodies of vehicles used to collect or transport all other solid waste shall be covered at all times, except during loading and unloading, in a manner that prevents rain from reaching waste, inhibits access by rodents and insects, prevents waste from falling or blowing from the vehicle, minimizes escape of odors, and does not create a nuisance.

c. The bodies of vehicles used for the transportation of ash shall be leak-resistant and covered so as to prevent emissions.

3. The bodies of all vehicles used to transport solid waste that produces leachate shall be equipped with a collection and containment system to ensure that leachate from the waste is not discharged in violation of these regulations.

4. The interior and exterior of the body of a vehicle used to transport putrescible solid waste shall be washed down as often as needed to ensure that odors generated by putrescible matter are minimized.

B. Vehicle Washdown Area

1. The vehicle washdown area shall be designed, constructed, and operated to prevent leakage which may lead to groundwater contamination or uncontrolled contaminated surface runoff.

2. Water collected shall be discharged and the containment system thoroughly cleaned as often as is needed to minimize odors. The leachate and the cleanout water shall be discharged in accordance with all applicable state and federal regulations.

C. Standards Governing Waste Transportation by Other Modes

1. Barge and Ship Transport

a. Barge and ship transport shall be governed by Paragraphs A.2, 3, and 4 and Paragraphs B.1 and 2 of this Section.

b. Loading and unloading facilities shall comply with LAC 33:VII.507, as applicable.

2. Pipelines

a. Transfer points, pumping stations, and other facilities with a potential for spillage shall be located above grade, or in watertight compartments, and shall be in containment areas constructed to hold the maximum potential spill.

b. Containment areas shall consist of a base and dikes constructed of concrete, compacted clay, or other impervious materials. All joints must be sealed.

3. Rail

a. Rail car transport shall be governed by Paragraphs A.2, 3, and 4 and Paragraphs B.1 and 2 of this Section.

b. Loading and unloading facilities shall comply with LAC 33:VII.507, as applicable.

4. Other. Collectors and off-site transporters utilizing facilities not covered by Subsections A and C of this Section shall apply to the administrative authority for regulations governing the proposed facility.

D. Transportation to Processing and Disposal Facilities. Solid waste shall be transported, for processing or disposal, only to facilities permitted to receive such waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1033 (June 2007).

§507. Standards Governing Collection Facilities for Solid Waste
[Formerly §707]

NOTE: Former §507 has moved to §405.

A. Owners/operators of collection facilities shall comply with existing local zoning and comprehensive land-use regulations and ordinances. The owner/operator shall be responsible for the management of the collection facility, in accordance with this Section.

B. Containers shall provide complete containment of waste, thereby preventing litter, discharges, odor, and other pollution of adjoining areas. Collection facilities shall meet the standards found in LAC 33:VII.503.A. They shall also occupy sufficient land so that vehicles using the facility will not adversely affect traffic or otherwise constitute a hazard or endanger public safety.

C. All waste accumulated or stored at the facility shall remain in containers that meet the following requirements.

1. Containers shall provide sufficient capacity to contain waste and prevent litter.

2. Containers shall be designed, constructed, and operated to keep out water and prevent leakage.

3. Containers shall be constructed and maintained to minimize odors and access by rodents and insects.

4. Containers shall be emptied before accumulation becomes a nuisance, a health hazard, or a detriment to the environment as determined by the administrative authority.

D. Inspections of collection facilities shall be made by the owner/operator, looking for cleanliness of the site, overfill of containers, closed lids, leaking containers, and deterioration of containers. Inspections shall be documented, and the records shall be maintained and available for inspection within 24 hours of request.

E. No processing or disposal shall occur at a collection facility.

F. Removal of all remaining wastes to a permitted facility shall occur at closure of a collection facility.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1034 (June 2007).

§508. Standards Governing Non-Processing Transfer Stations for Solid Waste

A. Owners/operators of non-processing transfer stations shall:

1. provide advanced written notice, at least 30 days prior to construction, to the parish governing authority whose jurisdiction may be affected, of the intent to operate a non-processing transfer station or other type of facility for the offloading and/or transloading of solid waste destined for disposal;

2. notify the Office of Environmental Services, Waste Permits Division, in accordance with LAC 33:VII.401;

3. comply with existing local zoning and comprehensive land-use regulations and ordinances; and

4. maintain site access roads or waterways in a manner that shall meet the demands of the facility and is designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents. The surface roadways shall be adequate to withstand the weight of transportation vehicles.

B. New facilities in which construction has commenced after June 20, 2007, shall comply with the buffer zone requirement of not less than 200 feet between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the adjoining landowner. A copy of the notarized affidavit waiving the 200-foot buffer zone shall be entered in the mortgage and conveyance records of the parish in which the adjoining landowner's property is located. The affidavit shall be maintained with the records of the facility.

C. No processing or disposal shall occur at a non-processing transfer station.

D. Facilities shall also comply with LAC 33:VII.503 and 505.

E. Owners/operators shall have the personnel necessary to achieve the operational requirements of the facility.

F. Facilities shall have control measures that prevent unauthorized ingress or egress, except by willful entry. During operating hours, each facility entry point shall be continuously monitored, manned, or locked. During non-operating hours, each facility entry point shall be locked.

G. Each tipping area shall be constructed and operated to prevent litter from leaving the tipping area. This area shall be constructed of sufficiently low permeable material (i.e., concrete or asphalt) to prevent soil and groundwater contamination.

H. Facilities shall be inspected by the owner/operator at the end of each operating day, and litter or waste shall be cleaned up and placed into the last transportation vehicle. These inspections shall be documented, and the inspection records shall be retained in accordance with Subsection J of this Section.

I. Odors shall be controlled by the best means practicable. The non-processing transfer stations shall be cleaned daily by an appropriate method to minimize odors and nuisance conditions.

J. All facility records shall be maintained and available for inspection within 24 hours of request. These records shall be maintained for the life of the facility and shall be retained for at least three years after closure.

K. The owner/operator of a non-processing transfer station may construct a drop-off area at the non-processing transfer station site such that certain activities can be conducted. No industrial waste shall be accepted, and materials shall be managed in accordance with LAC 33:VII.503, 507, and Subsections F, G, I, K, and L of this Section. These areas are intended for the use of commercial facilities and residential solid waste. Collection and storage of the following wastes are allowed, provided it does not become a nuisance, a health hazard, or a detriment to the environment as determined by the administrative authority:

1. white goods;
2. presorted yard trash; or
3. household recyclable materials.

L. Discharges from the facility shall be controlled and shall conform to all applicable state and federal laws.

M. All waste shall be removed to a permitted facility at closure. Notification of closure shall be submitted to the Office of Environmental Services, Waste Permits Division.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1034 (June 2007).

Subchapter B. Permit Administration

§509. Permit System

[Formerly §511, §315.E and F, and §513.F.5-7]

NOTE: Former §509 has moved to §407.

A. Scope

1. A permit shall be secured by any person who processes and/or disposes of solid waste, with the exception of those wastes or processing and disposal facilities described in LAC 33:VII.301, 303, and 305. Facilities (existing and proposed) subject to the permitting requirements detailed in these regulations are defined in LAC 33:VII.115 and categorized in LAC 33:VII.405.A.

2. Generators that are not processors or disposers of solid waste are not required to secure a permit. Generators of industrial solid waste shall notify the Office of Environmental Services, Waste Permits Division, in accordance with LAC 33:VII.501.B. Generators of industrial solid waste are subject to the applicable standards provided in LAC 33:VII.501.

3. Transporters that are not processors or disposers of solid waste are not required to secure a permit. Transporters of solid waste shall notify the Office of Environmental Services, Waste Permits Division, in accordance with LAC 33:VII.401.A and B. Transporters of solid waste are subject to the applicable standards provided in LAC 33:VII.505.

4. Collection facilities and non-processing transfer stations at which no solid waste is processed or disposed of are not required to secure a permit. Non-processing transfer stations and collection facilities are subject to the standards found in LAC 33:VII.503, 507, and 508 and shall notify the Office of Environmental Services, Waste Permits Division, in accordance with LAC 33:VII.401.A and B.

5. No new permitted solid waste facilities shall be constructed or operated without approval issued by the administrative authority in accordance with these regulations.

B. Types of Permits

1. Temporary Permit

a. A temporary permit allows continued operation of an existing facility that becomes subject to regulations in accordance with an interim operational plan, but does not allow the expansion or modification of the facility without prior approval of the administrative authority. The administrative authority may issue a temporary permit in the following situations:

i. to allow operations to continue at an existing facility while a standard permit application is being processed;

ii. to allow operations to continue at an existing facility while a closure plan permit application is being

processed or while a facility is being closed in accordance with a closure plan; or

iii. to allow an applicant for a permit for a proposed facility to begin construction on a limited basis while an application for a proposed facility is being processed for good cause shown.

b. The types of temporary permits issued on or after February 20, 1993, will correspond to the facility categories defined in LAC 33:VII.405.A (*Type I, Type I-A, Type II, Type II-A, and Type III*).

c. Temporary permits that may have been issued in the form of administrative orders, compliance orders to upgrade, orders to upgrade, compliance orders to close, orders to close, and settlement agreements prior to February 20, 1993, may remain in effect until otherwise determined by the administrative authority.

2. Standard Permit. Standard permits may be issued by the administrative authority to applicants for solid waste processing and/or disposal facilities that have successfully completed the standard permit application process. The types of standard permits issued on or after February 20, 1993, shall correspond to the facility categories set forth in LAC 33:VII.405.A (*Type I, Type I-A, Type II, Type II-A, and Type III*).

C. Existing Facilities Not Previously Classified or Not Presently Operating Under a Standard Permit

1. Only those existing facilities that the administrative authority classifies for upgrading may apply for a standard permit. The person notifying the Office of Environmental Services, Waste Permits Division, shall be issued a temporary permit and may continue operations in accordance with the interim operational plan, pending a decision on the standard permit application.

2. A facility classified for closure shall be issued a temporary permit. That permit may allow operations to continue in accordance with the interim operational plan until closure activities are accomplished and may require that closure and/or post-closure activities be conducted in accordance with the approved closure plan.

D. Duration of Permit

1. Temporary permits are issued for a period not to exceed three years.

2. Standard permits are issued for a period not to exceed 10 years.

a. Processing and/or disposal facilities with an effective standard permit shall submit to the Office of Environmental Services, Waste Permits Division, a new permit application at least 455 calendar days before the expiration date of the standard permit, unless permission for later filing is granted by the administrative authority. If the reapplication is submitted on or before the deadline above, and the administrative authority does not issue a final decision on the reapplication on or before the expiration date of the standard permit, the standard permit shall remain in effect until the administrative authority issues a final decision.

b. For permits with expiration dates greater than ten years, upon expiration, the department may, in accordance with rules and regulations, extend or reissue a permit for another time period of up to 10 years.

E. Property Rights. Permits issued by the administrative authority do not convey any property rights of any sort or any exclusive privilege.

F. Public Hearings

1. Public hearings may be held concerning standard permits for facilities at the discretion of the administrative authority.

2. Public hearings may be held concerning major modifications of standard permits at the discretion of the administrative authority.

3. Public hearings shall not be held concerning mandatory modifications, which are considered an enhancement of a standard permitted facility.

4. Public hearings shall be held for all facilities when the administrative authority determines, on the basis of comments received and other information, that a hearing is necessary. Public hearings shall be conducted in accordance with the Environmental Quality Act for fact-finding hearings or other hearing procedures developed by the administrative authority and the Administrative Procedure Act (R.S. 49:950 et seq.).

5. Public Opportunity to Request a Hearing. Any person may, within 30 days after the date of publication of the newspaper notice (LAC 33:VII.513.F.3), request that the administrative authority consider whether a public hearing is necessary. If the administrative authority determines that the requests warrant it, a public hearing will be scheduled. If the administrative authority determines that the requests do not raise genuine and pertinent issues, the Office of Environmental Services, Waste Permits Division, shall send the person requesting the hearing written notification of the determination. The request for a hearing shall be in writing and shall contain the name and affiliation of the person making the request and the comments in support of or in objection to the issuance of a permit.

6. Public Notice of a Public Hearing. If the administrative authority determines that a hearing is necessary, notices shall be published at least 20 days before a fact-finding hearing in the official journal of the state and in the official journal of the parish where the facility is located. The notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the official journal of the state shall be the only public notice required. Those persons on the Office of Environmental Services, Waste Permits Division's mailing list for hearings shall be mailed notice of the hearing at least 20 days before a public hearing. A notice shall also be published in the departmental bulletin, if available.

7. Receipt of Comments Following a Public Hearing. Comments received by the Office of Environmental Services, Waste Permits Division, until the close of business 30 days after the date of a public hearing shall be reviewed by the Office of Environmental Services, Waste Permits Division.

G. Other Requirements

1. The applicant may be required to obtain additional permits from other local state and federal agencies. Typical permits that may be needed are as follows:

- a. NPDES/LPDES (Section 402 of the Clean Water Act);
- b. Louisiana Water Discharge Permit;
- c. Louisiana Coastal Use Permit (issued by the Department of Natural Resources, Coastal Management Division);
- d. Louisiana Air Emissions Permit;
- e. U.S. Army Corps of Engineers Permit (Dredge and Fill, Section 404 of the Clean Water Act); or
- f. appropriate local permits, licenses, certification, registration, or approval.

2. It is the responsibility of the applicant to identify the other applicable permits that may be required. A listing of the permits that the applicant intends to apply for shall be included in the solid waste permit application.

3. The applicant shall provide appropriate documentation to the Office of Environmental Services, Waste Permits Division, that the proposed use does not violate zoning or other land-use regulations that exist at the time of the submittal of the standard permit application.

H. Suspension, Revocation, or Modification of Permit. The administrative authority may review a permit at any time. After review of a permit, the administrative authority may, for cause, suspend, revoke, or modify a permit in whole or in part in accordance with the procedures outlined in the Administrative Procedure Act.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1035 (June 2007).

NOTE: §511 has moved to §509.

§513. Permit Process for Existing Facilities and for Proposed Facilities

A. Applicant Public Notice

1. The prospective applicant shall publish a notice of intent to submit an application for a standard permit. This notice shall be published 1 to 45 days prior to submission of the application to the Office of Environmental Services, Waste Permits Division. This notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of this state and in a major local newspaper of general circulation. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the legal or public notices section of the official journal of the state will be the only public notice required.

2. The public notice shall be published in accordance with the form provided in LAC 33:VII.3001.Appendix A.

3. Proof of publication of the notice shall be included in all applications for existing and proposed facilities submitted to the administrative authority.

B. Permit Application Requirements

1. Any person who generates, transports, or stores solid waste, and is not issued a permit, but is under the jurisdiction of the department, shall comply with the applicable provisions of these regulations.

2. Submittal of Permit Applications

a. Any applicant for a standard permit for existing or proposed processing and disposal facilities shall complete Part I, Part II, and Part III of the standard permit application, following the instructions for the appropriate facility class in LAC 33:VII.519, 521, 522, and 523, and submit six copies

to the Office of Environmental Services, Waste Permits Division. Each individual copy of the application shall be a standard three-ring-bound document measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

b. Each application for which a standard permit application fee is prescribed shall be accompanied by a remittance in the full amount of the appropriate standard permit application review fee. No application shall be accepted or processed prior to payment of the full amount specified.

c. The completed separate standard permit application for each existing facility shall be submitted to the Office of Environmental Services, Waste Permits Division, within 180 days after issuance of the temporary permit.

C. Notices to Parish Governing Authorities. As provided in R.S. 30:2022, upon receipt of a permit application the Office of Environmental Services, Waste Permits Division, shall provide written notice on the subject matter to the parish governing authority, which shall promptly notify each parish municipality affected by the application.

D. Permit Application Review and Evaluation

1. LAC 33:VII.Chapters 5, 7, and 8 establish the evaluation criteria used by the administrative authority.

2. The applicant shall make available to the department the assistance of professional engineers or other trained individuals responsible for the design of the facility to explain the design and operation.

3. The applicant shall furnish all other technical information the department may require to evaluate the standard permit application, monitor the performance of the facility, and insure that the purposes of this program are met.

E. Standard Permit Applications Deemed Unacceptable or Deficient

1. Applications deemed unacceptable for technical review will be rejected. For the administrative authority to reconsider the application, the applicant shall resubmit the entire standard permit application to the Office of Environmental Services, Waste Permits Division, including the review fee, by a reasonable due date set by the administrative authority.

2. Applicants submitting applications that are acceptable for technical review, but lack the information outlined in these regulations, will be informed of such deficiencies. These deficiencies shall be corrected by the submission of supplementary information by a reasonable due date set by the administrative authority.

3. The supplementary information as referenced in Paragraph E.2 of this Section shall address all deficiencies and/or show significant progression in addressing all outstanding deficiencies, or the application may be denied.

F. Standard Permit Applications Deemed Technically Complete

1. Applications that have been deemed technically complete shall be accepted for public review. When the permit is accepted for public review, the administrative authority shall request an additional six copies, or more if necessary. The copies shall be distributed for public review as follows:

- a. one copy to the local parish governing authority;
- b. one copy to the parish public library;
- c. one copy to the appropriate regional office; and

d. three copies to remain in the department's headquarters in Baton Rouge.

2. Each copy of the permit application shall be provided as a standard three-ring-bound document (8 1/2 by 11 inches). The application shall incorporate, in the appropriate sections, all required plans, narratives, and revisions made during the review process and shall include appropriate tabbing for all appendices, figures, etc. Permit applications that present revisions made during the review process as a separate supplement to the application will not be accepted.

3. After the six copies are submitted to the Office of Environmental Services, Waste Permits Division, notices shall be placed in the department's bulletin (if one is available), the official journal of the state, and in a major local newspaper of general circulation. The Office of Environmental Services, Waste Permits Division, shall publish a notice of acceptance for review one time as a single classified advertisement in the legal or public notices section of the official journal of the state and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the official journal of the state shall be the only public notice required. The notices will solicit comment from interested individuals and groups. Comments received by the administrative authority within 30 days after the date the notice is published in the local newspaper shall be reviewed by the Office of Environmental Services, Waste Permits Division. The notice shall be published in accordance with the sample public notice provided by the Office of Environmental Services, Waste Permits Division. The applicant is responsible for providing the Office of Environmental Services, Waste Permits Division, with proof of publication.

G. Issuance or Denial of a Permit

1. The administrative authority shall issue a standard permit or shall issue a standard permit application denial, including reasons for the denial.

2. A temporary permit may be issued to allow closure activities to be accomplished at a facility that has been issued a standard permit application denial.

H. Public Notice of Permit Issuance. No later than 10 days following the issuance of a standard permit, the permit holder shall publish a notice of the issuance of the standard permit. This notice shall be published in the official journal of the state and in a major local newspaper of general circulation. The notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of the state, and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the official journal of the state shall be the only public notice required. The notice shall be published in accordance with the sample public notice provided by the Office of Environmental Services, Waste Permits Division. The applicant is responsible for providing the Office of Environmental Services, Waste Permits Division, with proof of publication.

I. As a permit condition, the department will establish a time frame for the facility to submit the necessary construction certification.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2519 (November 2000), amended by the Office of Environmental Assessment, LR 30:2032 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2488 (October 2005), LR 33:1037 (June 2007).

Subchapter C. Permit System for Facilities Classified for Upgrade or Closure

§515. Permit Process for Existing Facilities Classified for Closure

A. Closure Plan Review and Evaluation. LAC 33:VII.403 and Chapters 7 and 8 establish the criteria used by the Office of Environmental Services, Waste Permits Division, in evaluating closure plans.

B. Submittal of Closure Plans

1. Permit holders for facilities classified for closure shall submit to the Office of Environmental Services, Waste Permits Division, four bound copies of a closure plan within 60 days after issuance of the temporary permit for the facility. Each individual copy of the plan shall be a standard three-ring-bound document measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

2. The following sections of the regulations shall be addressed and incorporated in the closure plan for all solid waste processing and disposal facilities. All responses and exhibits shall be identified in the following sequence to facilitate the evaluation. All applicable sections of LAC 33:VII.Chapters 5, 7, and 8 shall be addressed and incorporated into the closure plan:

- a. LAC 33:VII.519, Permit Application Form, Part I;
- b. a map clearly delineating the location of the facility;
- c. LAC 33:VII.709.A.10.a and b, Wells and Faults, respectively (only required for Type I and II facilities with on-site closure);
- d. LAC 33:VII.521.C, Facility Characteristics;
- e. LAC 33:VII.521.D, Facility Surface Hydrology;
- f. LAC 33:VII.522.A, General Facility Geology (only required for Type I and II facilities that have not undergone clean closure);
- g. LAC 33:VII.522.B, Subsurface Characterization (only required for Type I and II facilities that have not undergone clean closure);
- h. LAC 33:VII.522.C, Facility Groundwater Monitoring (only required for Type I and II facilities that have not undergone clean closure);
- i. LAC 33:VII.521.E, Facility Plans and Specifications (only required for Type I and II facilities with on-site closure and with a potential to produce gases);
- j. the types (including chemical and physical characteristics) and sources of waste processed or disposed of at the facility;
- k. LAC 33:VII.521.I.1.b and c, Facility Closure;
- l. LAC 33:VII.521.I.1-2, Facility Closure;

- m. LAC 33:VII.521.J.1, Facility Post-Closure;
- n. LAC 33:VII.521.J.2, Facility Post-Closure (only required for Type I and II facilities that have not undergone clean closure);
- o. the name of the person who currently owns the land;
- p. LAC 33:VII.521.K, Financial Responsibility; and
- q. a detailed implementation schedule for closure of the facility with built-in flexibility to coincide with the date of approval of the closure plan.

3. Each closure plan for which a closure fee is prescribed shall be accompanied by a remittance in the full amount of the closure plans review fee. No closure plans shall be accepted or processed prior to payment of the full amount specified.

C. Closure Plans Determined Unacceptable or Deficient

1. Closure plans that are determined unacceptable for a technical review will be rejected. The permit holder shall be required to resubmit the entire application to the Office of Environmental Services, Waste Permits Division, including the review fee, by a date set by the administrative authority.

2. Permit holders submitting closure plans that lack the information contained in Paragraph B.2 of this Section and the applicable standards of LAC 33:VII.Chapters 7 and 8 shall be informed of such in a closure plan deficiency letter; these shall be corrected by submission of supplementary information within 30 days after receipt of the closure plan deficiency letter.

D. Closure Plans Deemed Technically Complete. Closure plans that have been deemed technically complete shall be approved. Within 30 days after receipt of closure plan approval, the permit holder shall submit to the Office of Environmental Services, Waste Permits Division, three copies of the closure plan that incorporate all revisions made during the closure plan review process. Additional copies will be required if deemed necessary by the administrative authority. Each copy shall be provided as a standard three-ring-bound document measuring 8 1/2 by 11 inches, and shall include appropriate tabbing for all appendices, figures, etc. Closure plans shall incorporate revisions made during the review process. Closure plans that present revisions made during the review process as a separate supplement to the closure plan shall not be accepted.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2520 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2489 (October 2005), LR 33:1038 (June 2007).

§517. Modifications of Permits and Other Authorizations to Operate

A. Modification Requests

1. The permit holder shall notify the Office of Environmental Services, Waste Permits Division, in advance, of any change in a facility or deviation from a permit. Such notification shall detail the proposed modification and shall include an assessment of the effects of the modification on the environment and/or the operation. Modification details shall include, but not be limited to, a summary detailing the modification request and all

appropriate drawings, narratives, etc., which shall illustrate and describe the originally permitted representations and the proposed modifications thereto. New language requested in the permit narrative and existing language requested to be deleted from the permit narrative shall be identified therein.

a. Initially, six copies of all modification requests shall be provided to the Office of Environmental Services, Waste Permits Division. Each individual copy of the document shall be 8 1/2 by 11 inches and shall be bound in a standard three-ring binder. The modification shall incorporate, in the appropriate sections, all required plans, narratives, and revisions made during the review process and shall include appropriate tabbing, if applicable, for all appendices, figures, etc.

b. Each permit-modification request for which a permit-modification review fee is prescribed shall be accompanied by remittance of the fee. No permit modification requests shall be accepted or processed prior to payment in full of the amount specified.

2. All notifications of proposed changes in ownership of a permit for a facility are the responsibility of the permittee and shall include the following, to be submitted to the Office of Environmental Services, Waste Permits Division:

a. a statement from the proposed permit holder assuming liability for existing violations and conditions;

b. proof of financial responsibility by the proposed permit holder, as required by LAC 33:VII.1301.A and 1303.A; and

c. information required in LAC 33:I.1701.

3. All major modification requests shall address the additional supplemental information required pursuant to LAC 33:VII.523 in relation to the proposed permit modification activity.

B. Public Notice of Modifications

1. Major modifications require public notice. Modifications to a permit that require public notice include, but are not limited to, the following:

a. a change in the types of waste to be received at a facility (e.g., where a facility is modified to accept industrial waste);

b. an increase in the volume or rate of waste to be received at a facility;

c. a physical expansion of the service area;

d. an increase in the capacity of a facility;

e. a decrease in the personnel or equipment of a facility without a reasonable reduction in waste acceptance;

f. an extension of the operating hours or days of operation;

g. a change to the facility that may have an impact on traffic patterns;

h. a reduction in the number of groundwater sampling parameters or the number of groundwater monitoring wells;

i. a lateral or vertical expansion of the permitted area(s) for waste disposal, except for vertical expansion that would result in no net increase of in-place volume; or

j. other changes in the permit that tend to make the permit requirements less stringent.

2. Permit modifications that require public notice and that have been determined by the Office of Environmental Services, Waste Permits Division, to be technically complete

will be accepted for public review. When the permit modification is accepted for public review, the administrative authority shall request an additional six copies, or more if necessary. The copies will be distributed for public review as follows:

- a. three copies to the Office of Environmental Services, Waste Permits Division, in Baton Rouge;
- b. one copy to the appropriate regional office;
- c. one copy to the local parish public library; and
- d. one copy to the local parish governing authority.

3. After distribution of the permit modification, a notice shall be published by the department in the official journal of the state and in the official journal of the parish where the facility is located. The notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of the state, one time as a classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located, and one time in the department's bulletin. The cost of the publication shall be borne by the applicant. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the official journal of the state shall be the only public notice required. The notice shall solicit comments from interested individuals and groups. Comments delivered or received within 30 days after the date the notices are published shall be reviewed by the Office of Environmental Services, Waste Permits Division. The notice shall be published in accordance with a sample public notice provided by the Office of Environmental Services, Waste Permits Division.

4. Mandatory modifications are considered to be enhancements and will require neither public notice nor public hearing.

C. No modification shall be instituted without the written approval of the administrative authority.

D. Operation of a modified construction feature or unit of a standard permitted facility may commence after the provisions of LAC 33:VII.407.F are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2520 (November 2000), amended by the Office of Environmental Assessment, LR 30:2033 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2430, 2490 (October 2005), LR 33:1039 (June 2007).

Subchapter D. Permit Application

§519. Part I: Permit Application Form

A. The applicant shall complete a standard permit application Part I Form obtained from the Office of Environmental Services, Waste Permits Division, or the department's website. The form requires the following information:

1. the name of the applicant (prospective permit holder) applying for a standard permit;
2. the facility name;
3. a description of the location of the facility (identify by street and number or by intersection of roads, or by mileage and direction from an intersection);

4. the geographic location (section, township, range, and parish where the facility is located, and the coordinates, as defined by the longitude and latitude to the second), of the centerpoint of the facility;

5. the mailing address of the applicant;

6. the contact person for the applicant (the position or title of the contact person is acceptable);

7. the telephone number of the contact person;

8. the type and purpose of the operation (check each applicable box);

9. the status of the facility (if leased, state the number of years of the lease and provide a copy of the lease agreement);

10. the operational status of the facility;

11. the total site acreage and the amount of acreage that will be used for processing and/or disposal;

12. a list of all environmental permits that relate directly to the facility represented in this application;

13. the zoning of the facility that exists at the time of the submittal of the standard permit application (note the zone classification and zoning authority, and include a zoning affidavit or other documentation stating that the proposed use does not violate existing land-use requirements);

14. the types, maximum quantities (wet tons/week), and sources (percentage of the on-site or off-site-generated waste to be received) of waste to be processed or disposed of by the facility;

15. the specific geographic area(s) to be serviced by the solid waste facility;

16. proof of publication of the notice regarding the submittal of the permit application as required in LAC 33:VII.513.A;

17. the signature, typed name, and title of the individual authorized to sign the application (provide proof of the legal authority of the signatory to sign for the applicant); and

18. any additional information required by the administrative authority.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1040 (June 2007).

§520. Compliance Information

A. All applicants for solid waste permits shall comply with the requirements of LAC 33:I.1701.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:661 (April 1999), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1040 (June 2007).

§521. Part II: Supplementary Information, All Processing and Disposal Facilities

A. The permit application for solid waste processing and disposal facilities shall contain the information described in this Section. All responses and exhibits shall be identified in the following sequence to facilitate the evaluation. Additionally, all applicable Sections of LAC 33:VII.Chapters 7 and 8 shall be addressed and incorporated

into the application responses. If a Section does not apply, the applicant shall state that it does not apply and explain why.

B. Location Characteristics. Standards pertaining to location characteristics are contained in LAC 33:VII.709.A (Type I and II facilities), LAC 33:VII.717.A (Type I-A and II-A facilities), and LAC 33:VII.719.A (Type III facilities). The following information is required for all facilities:

1. area master plans;
2. access facilities;
3. a letter from an appropriate agency concerning the traffic flow for facilities receiving waste generated off-site;
4. the distance to the nearest airport runway and proof of notification to the affected airport and the Federal Aviation Administration;
5. the existing land use;
6. an aerial photograph of the site;
7. the environmental characteristics of the site;
8. a wetlands demonstration, if applicable, as provided in LAC 33:VII.709.A.8;
9. demographic information concerning the estimated population density, within a 3-mile radius of the facility boundary, based on the latest census figures; and
10. information regarding wells, faults, seismic impact zones, unstable areas, and utilities, which is required for Type I and II facilities.

C. Facility Characteristics. Standards concerning facility characteristics are contained in LAC 33:VII.709.B (Type I and II facilities), LAC 33:VII.717.B (Type I-A and II-A facilities), and LAC 33:VII.719.B (Type III facilities). A facility plan, including drawings and a narrative, describing the information required below shall be provided.

1. The following information is required for all facilities:

- a. elements of the process or disposal system employed;
- b. the perimeter barrier and other control measures;
- c. a buffer zone;
- d. fire-protection and medical care measures;
- e. landscaping and other beautification efforts;
- f. devices or methods to determine, record, and monitor incoming waste;
- g. NPDES/LPDES discharge points (existing and proposed); and
- h. other features, as appropriate.

2. The following information is required for Type I and II facilities:

- a. areas for isolating nonputrescible waste or incinerator ash, and borrow areas; and
- b. location of leachate collection/treatment/removal system.

D. Facility Surface Hydrology. Standards governing facility surface hydrology are contained in LAC 33:VII.711.A (Type I and II landfills), LAC 33:VII.713.A (Type I and II surface impoundments), LAC 33:VII.715.A (Type I and II landfarms), LAC 33:VII.717.C (Type I-A and II-A facilities), LAC 33:VII.719.C (Type III facilities), and LAC 33:VII.723.B (composting facilities). The following information is required for all facilities:

1. a description of the method to be used to prevent surface drainage through the operating areas of the facility;

2. a description of the facility runoff/run-on collection system;

3. the rainfall amount from a 24-hour/25-year storm event;

4. the location of aquifer recharge areas in the site or within 1,000 feet of the site perimeter, along with a description of the measures planned to protect those areas from the adverse impact of operations at the facility; and

5. if the facility is located in a flood plain, a plan to ensure that the facility does not restrict the flow of the 100-year base flood or significantly reduce the temporary water-storage capacity of the flood plain, and documentation indicating that the design of the facility is such that the flooding does not affect the integrity of the facility or result in the washout of solid waste.

E. Facility Plans and Specifications. Standards governing facility plans and specifications are contained in LAC 33:VII.711.B (Type I and II landfills), LAC 33:VII.713.B (Type I and II surface impoundments), LAC 33:VII.715.B (Type I and II landfarms), LAC 33:VII.717.E (Type I-A and II-A facilities), LAC 33:VII.721.A (Type III construction and demolition debris and woodwaste landfills), LAC 33:VII.723.A (composting facilities), and LAC 33:VII.725.A (Type III separation and woodwaste processing facilities).

1. Certification. The person who prepared the permit application shall provide the following certification:

"I certify under penalty of law that I have personally examined and I am familiar with the information submitted in this permit application and that the facility as described in this permit application meets the requirements of LAC 33:VII.Subpart 1. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment."

2. Geotechnical field tests and laboratory tests shall be conducted according to the standards of the American Society for Testing and Materials (ASTM) or the EPA or other applicable standards approved by the administrative authority. The results of these tests may be used for modeling and analysis purposes.

3. The following information is required for Type I and II facilities:

a. detailed plan-view drawings showing original contours, proposed elevations of the base of units prior to installation of the liner system, and proposed final contours (e.g., maximum height);

b. detailed drawings of slopes, levees, and other pertinent features;

c. the type of material and its source for levee construction. Calculations shall be performed to indicate the volume of material required for levee construction;

d. representative cross sections showing original and final grades, drainage, the location and type of liner, and other pertinent information;

e. a description of the liner system, which shall include calculations of anticipated leachate volumes, rationales for particular designs of such systems, and drawings; and

f. a description of the leachate collection and removal system, which shall include calculations of anticipated leachate volumes, rationales for particular designs of such systems, and drawings.

4. The following information is required for Type I, II, and III landfills:

a. approximate dimensions of daily fill and cover; and

b. the type of cover material and its source for daily, interim, and final cover. Calculations shall be performed to indicate the volume of material required for daily, interim, and final cover.

5. Type I and II landfills and surface impoundments with a potential to produce gases shall provide a gas collection/treatment or removal system.

F. Facility Administrative Procedures. Standards governing facility administrative procedures are contained in LAC 33:VII.711.C (Type I and II landfills), LAC 33:VII.713.C (Type I and II surface impoundments), LAC 33:VII.715.C (Type I and II landfarms), LAC 33:VII.717.F (Type I-A and II-A facilities), LAC 33:VII.721.B (Type III construction and demolition debris and woodwaste landfills), LAC 33:VII.723.C (composting facilities), and LAC 33:VII.725.B (Type III separation and woodwaste processing facilities).

1. The following information is required for all facilities:

a. a description of the recordkeeping system, including types of records to be kept, and the use of records by management to control operations as required;

b. an estimate of the minimum personnel, listed by general job classification, required to operate the facility;

c. the maximum days of operation per week and hours per facility operating day (maximum hours of operation within a 24-hour period); and

d. an annual report submitted to the administrative authority.

2. Type II and Type III facilities shall include the number of certified facility operators determined and certified by the Louisiana Solid Waste Operator Certification and Training Program Board (R.S. 37:3151 et seq. and LAC 46:Part XXIII).

G. Facility Operational Plans. Standards governing facility operational plans are contained in LAC 33:VII.711.D (Type I and II landfills), LAC 33:VII.713.D (Type I and II surface impoundments), LAC 33:VII.715.D (Type I and II landfarms), LAC 33:VII.717.G (Type I-A and II-A facilities), LAC 33:VII.721.C (Type III construction and demolition debris and woodwaste landfills), LAC 33:VII.723.D (composting facilities), and LAC 33:VII.725.C (Type III separation and woodwaste processing facilities).

1. The following information is required for all facilities:

a. types of waste (including chemical, physical, and biological characteristics of industrial wastes generated on-site), maximum quantities of wastes per year, and sources of waste to be processed or disposed of at the facility;

b. waste-handling procedures from entry to final disposition, which could include shipment of recovered materials to a user;

c. minimum equipment to be furnished at the facility;

d. plan to segregate wastes, if applicable;

e. procedures planned in case of breakdowns, inclement weather, and other abnormal conditions (including detailed plans for wet-weather access and operations);

f. procedures, equipment, and contingency plans for protecting employees and the general public from accidents, fires, explosions, etc., and provisions for emergency response and care, should an accident occur (including proximity to a hospital, fire and emergency services, and training programs); and

g. provisions for controlling vectors, dust, litter, and odors.

2. The following information is required for Type I, I-A, II, II-A, and III facilities:

a. a comprehensive operational plan describing the total operation, including but not limited to, inspection of incoming waste to ensure that only permitted wastes are accepted (Type II landfills shall provide a plan for random inspection of incoming waste loads to ensure that hazardous wastes or Toxic Substances Control Act (TSCA) regulated PCB wastes are not disposed of in the facility.); traffic control; support facilities; equipment operation; personnel involvement; and day-to-day activities. A quality-assurance/quality-control (QA/QC) plan shall be provided for facilities receiving industrial waste; domestic-sewage sludge; incinerator ash; asbestos-containing waste; nonhazardous petroleum-contaminated media; and debris generated from underground storage tanks (UST), corrective action, or other special wastes as determined by the administrative authority. The QA/QC plan shall include, but shall not be limited to, the necessary methodologies; analytical personnel; preacceptance and delivery restrictions; handling procedures; and appropriate responsibilities of the generator, transporter, processor, and disposer. The QA/QC plan shall ensure that only permitted, nonhazardous wastes are accepted;

b. salvaging procedures and control, if applicable;

c. scavenging control; and

d. a comprehensive air monitoring plan for facilities receiving waste with a potential to produce methane gases.

3. The following information is required for Type I and II landfarms.

a. Items to be submitted, regardless of land use, include:

i. a detailed analysis of waste, including but not limited to, pH, phosphorus, nitrogen, potassium, sodium, calcium, magnesium, sodium-adsorption ratio, and total metals (as listed in LAC 33:VII.715.D.3.b);

ii. soil classification, cation-exchange capacity, organic matter, content in soil, soil pH, nitrogen, phosphorus, metals (as listed in LAC 33:VII.715.D.3.b), salts, sodium, calcium, magnesium, sodium-adsorption ratio, and PCB concentrations of the treatment zone; and

iii. annual application rate (dry tons per acre) and weekly hydraulic loading (inches per acre).

b. Items to be submitted in order for landfarms to be used for food-chain cropland include:

i. a description of the pathogen-reduction method for septage, domestic sewage sludges, and other sludges subject to pathogen production;

ii. crops to be grown and the dates for planting;

iii. PCB concentrations in waste;

iv. annual application rates of cadmium and PCBs; and

v. cumulative applications of cadmium and PCBs.

c. Items to be submitted for landfarms to be used for non-food-chain purposes include:

- i. a description of the pathogen-reduction method in septage, domestic sewage sludges, and other sludges subject to pathogen production; and
- ii. a description of control of public and livestock access.

4. The following information is required for Type I-A and II-A incinerator waste-handling facilities and refuse-derived energy facilities:

- a. a description of the method used to handle process waters and other water discharges that are subject to NPDES/LPDES permit and state water discharge permit requirements and regulations; and
- b. a plan for the disposal and periodic testing of ash (All ash and residue shall be disposed of in a permitted facility).

5. The following information is required for Type I-A and II-A refuse-derived fuel facilities and Type III separation and composting facilities:

- a. a description of the testing to be performed on the fuel or compost; and
- b. a description of the uses for and the types of fuel/compost to be produced.

6. Type I-A and II-A refuse-derived fuel facilities and Type III separation and composting facilities shall include a description of marketing procedures and control.

H. Implementation Plans. All facilities shall have implementation plans in accordance with standards in LAC 33:VII.709.D (Type I and II facilities), LAC 33:VII.717.H (Type I-A and II-A facilities), and LAC 33:VII.719.E (Type III facilities).

I. Facility Closure. Standards governing facility closure are contained in LAC 33:VII.711.E (Type I and II landfills), LAC 33:VII.713.E (Type I and II surface impoundments), LAC 33:VII.715.E (Type I and II landfarms), LAC 33:VII.717.I (Type I-A and II-A facilities), LAC 33:VII.721.D (Type III construction and demolition debris and woodwaste landfills), LAC 33:VII.723.E (composting facilities), and LAC 33:VII.725.D (Type III separation and woodwaste processing facilities).

1. The closure plan for all facilities shall include the following:

- a. the date of final closure;
- b. the method to be used and steps necessary for closing the facility; and
- c. an itemized cost of closure of the facility, based on the estimated cost of hiring a third party to close the facility at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive.

2. The closure plan for Type I and II landfills and surface impoundments shall include:

- a. a description of the final cover and the methods and procedures used to install the cover;
- b. an estimate of the largest area of the facility ever requiring a final cover at any time during the active life;
- c. an estimate of the maximum inventory of solid waste ever on-site over the active life of the facility; and
- d. a schedule for completing all activities necessary for closure.

3. The closure plan for all Type I and II facilities and Type III woodwaste and construction/demolition debris facilities shall include the following:

- a. the sequence of final closure of each unit of the facility, as applicable;
- b. a drawing showing final contours of the facility; and
- c. a copy of the document that will be filed upon closure of the facility with the official parish recordkeeper indicating the location and use of the property for solid waste disposal, unless the closure plan specifies a clean closure.

J. Facility Post-Closure. Standards governing post-closure requirements are contained in LAC 33:VII.711.F (Type I and II landfills), LAC 33:VII.713.F (Type I and II surface impoundments), LAC 33:VII.715.F (Type I and II landfarms), and LAC 33:VII.721.E (Type III construction and demolition debris and woodwaste landfills).

1. The post-closure plan for all facilities shall include the following:

- a. discussion of the long-term use of the facility after closure, as anticipated; and
- b. an itemized cost of conducting post-closure of the facility, based on the estimated cost of hiring a third party to conduct post-closure activities in accordance with the closure plan.

2. The post-closure plan for Type I and II facilities shall include the following:

- a. the method for conducting post-closure activities, including a description of the monitoring and maintenance activities and the frequency at which they will be performed;
- b. the method for abandonment of monitoring systems, leachate collection systems, gas-collection systems, etc.;
- c. measures planned to ensure public safety, including access control and gas control; and
- d. a description of the planned uses of the facility during the post-closure period.

K. Financial Responsibility. Standards governing financial responsibility are contained in LAC 33:VII.Chapter 13. All applicable Sections of LAC 33:VII.Chapter 13 must be addressed and incorporated into the permit application responses. A section documenting financial responsibility according to LAC 33:VII.Chapter 13 that contains the following information shall be included for all facilities:

1. the name and address of the person who currently owns the land and the name and address of the person who will own the land if the standard permit is granted (if different from the permit holder, provide a copy of the lease or document which evidences the permit holder's authority to occupy the property); or
2. the name of the agency or other public body that is requesting the standard permit, or if the agency is a public corporation, its published annual report, or if otherwise, the names of the principal owners, stockholders, general partners, or officers;
3. evidence of liability coverage, including:
 - a. personal injury, employees, and the public (coverage, carriers, and any exclusions or limitations);
 - b. property damage (coverage and carrier);
 - c. environmental risks; and

4. evidence of a financial assurance mechanism for closure and/or post-closure care and corrective action for known releases when needed.

L. Solid Waste Fees. Standards governing solid waste fees are contained in LAC 33:VII.Chapter 15. A section documenting compliance with applicable fees according to LAC 33:VII.Chapter 15 shall be included for all facilities.

M. Special Requirements. The administrative authority may require additional information for special processes or systems and for supplementary environmental analysis.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1040 (June 2007).

§522. General Facility Geology, Subsurface Characterization, and Facility Groundwater Monitoring

A. General Facility Geology. Standards governing facility geology are contained in LAC 33:VII.801. The following information is required for Type I, Type I-A, Type II, Type II-A, and Type III facilities:

1. a demonstration that the person who characterized the subsurface soil and groundwater conditions at the facility is qualified. At a minimum, this individual shall be a geologist, or a professional engineer licensed in the state of Louisiana with expertise in geotechnical engineering and hydrogeology; and

2. a demonstration that the facility has natural soils of low permeability as provided in LAC 33:VII.801.A.2; or

3. a design for surfacing natural soils that do not meet the low permeability standard as provided in LAC 33:VII.801.A.3.

B. Subsurface Characterization. Standards governing subsurface characterization are contained in LAC 33:VII.803.

1. Type I, II, and III facilities shall demonstrate that the facility meets the boring requirements provided in LAC 33:VII.803.A.

2. Type I and II facilities shall demonstrate that:

a. the facility meets the piezometer or monitoring well requirements as provided in LAC 33:VII.803.B; and

b. the facility meets the geology and groundwater flow characterization requirements provided in LAC 33:VII.803.C.

C. Facility Groundwater Monitoring. Standards governing facility groundwater monitoring are contained in LAC 33:VII.805. The following information is required for Type I and II facilities:

1. a designation of each zone that will be monitored;

2. a map for each groundwater monitoring zone that depicts the locations of all monitoring wells (including proposed monitoring wells) that are screened in a particular zone and each zone's relevant point of compliance, along with information that demonstrates that monitoring wells meet the standards in LAC 33:VII.805.A.1 and 2. For proposed monitoring wells, the response to this requirement shall provide an implementation schedule for submitting a

revised well location map showing all existing and proposed monitoring wells that are screened in each particular zone;

3. a geologic cross section along the perimeter of the facility showing screen intervals for existing and proposed monitoring wells, along with other applicable information required in LAC 33:VII.803.C.2.a. For proposed monitoring wells, the response to this requirement shall include an implementation schedule for revising applicable geologic cross sections to include the screen interval of the newly installed monitoring wells and other applicable information required in LAC 33:VII.803.C.2.a;

4. a designation of each monitoring well (including any proposed monitoring wells) as either "background" or "down gradient," for each zone that will be monitored;

5. a table displaying pertinent well construction details for each monitoring well, including the elevation of the reference point for measuring water levels to the National Geodetic Vertical Datum (NGVD), the elevation of the ground surface (NGVD), the drilled depth (in feet), the depth to which the well is cased (in feet), the depth to the top and bottom of the bentonite seal (in feet), the depth to the top and bottom of the screen (in feet), the slot size, the casing size, and the type of grout; and as-built diagrams (cross sections) of each well providing the aforementioned well construction details. For proposed monitoring wells, the response to this requirement shall provide an implementation schedule for submitting the information specified in this requirement;

6. a demonstration that the monitoring wells are constructed according to the standards in LAC 33:VII.805.A.3. For proposed monitoring wells, the response to this requirement shall provide an implementation schedule for submitting the information specified in this requirement;

7. for an existing facility, all background data and at least three years of detection monitoring data from monitoring wells in place at the time of the permit application. If this data exists in the department records, the administrative authority may allow references to the data in the permit application. For an existing facility with no wells, groundwater data shall be submitted within 90 days after the installation of monitoring wells. For a new facility or expansion, groundwater data (one sampling event) shall be submitted before waste is accepted;

8. a sampling and analysis plan that meets the standards in LAC 33:VII.805.B and includes a table that specifies each parameter, analytical method, practical quantitation limit, and Chemical Abstracts Service registry number (CAS RN); and

9. a plan for detecting, reporting, and verifying changes in groundwater.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1044 (June 2007).

§523. Part III: Additional Supplementary Information

A. The following supplementary information is required for all solid waste processing and disposal facilities. All responses and exhibits shall be identified in the following sequence to facilitate the evaluation:

1. a discussion demonstrating that the potential and real adverse environmental effects of the facility have been avoided to the maximum extent possible;

2. a cost-benefit analysis demonstrating that the social and economic benefits of the facility outweigh the environmental-impact costs;

3. a discussion and description of possible alternative projects that would offer more protection to the environment without unduly curtailing nonenvironmental benefits;

4. a discussion of possible alternative sites that would offer more protection to the environment without unduly curtailing nonenvironmental benefits; and

5. a discussion and description of the mitigating measures which would offer more protection to the environment than the facility, as proposed, without unduly curtailing nonenvironmental benefits.

B. An application for renewal or extension of an existing permit shall not be subject to submittal of the additional supplementary information required in Subsection A of this Section, unless said renewal or extension encompasses changes that need to be addressed as major applications.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Waste Services, Solid Waste Division, LR 23:1685 (December 1997), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1044 (June 2007).

NOTE: Former Subchapter D has moved to Chapter 15.

NOTE: §525 has moved to §1501.

NOTE: §527 has moved to §1503.

NOTE: §529 has moved to §1505.

Chapter 7. Solid Waste Standards

NOTE: Former Subchapter A has moved to Chapter 5. Subchapter A.

NOTE: §701 has moved to §501.

NOTE: §703 has moved to §503.

NOTE: §705 has moved to §505.

NOTE: §707 has moved to §507.

Subchapter A. Landfills, Surface Impoundments, Landfarms

§709. Standards Governing Type I and II Solid Waste Disposal Facilities [Formerly some of the provisions in Subsections A and B existed in §521.]

A. Location Characteristics. The information on location characteristics listed in this Subsection is required and shall be provided for all Type I and II solid waste disposal facilities, as outlined in LAC 33:VII.521.B.

1. Area master plans shall include location maps and/or engineering drawings. The scale of the maps and engineering drawings must be legible. Area master plans shall show:

- a. the facility;
- b. the road network;
- c. major drainage systems;
- d. drainage-flow patterns;
- e. the location of the closest population centers;
- f. if the facility disposes of putrescible solid waste, the location of any public-use airport used by turbojet aircraft or piston-type aircraft (if within a 5-mile radius);
- g. the location of the 100-year flood plain, based on the most recent data; and
- h. other pertinent information.

2. Access to facilities by land or water transportation shall be by all-weather roads or waterways that can meet the demands of the facility and are designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or

other hazards conducive to accidents. The surface roadways shall be adequate to withstand the weight of transportation vehicles.

3. A letter shall be acquired from the appropriate agency or agencies regarding any facility receiving waste generated off-site, stating that the facility will not have a significant adverse impact on the traffic flow of area roadways and that the construction, maintenance, or proposed upgrading of such roads is adequate to withstand the weight of the vehicles.

4. Facilities that dispose of putrescible solid waste shall not be located within 10,000 feet of the end of any public-use airport runway used by turbojet aircraft or within 5,000 feet of the end of any public-use airport runway used by only piston-type aircraft. Permit applicants for proposed Type II landfills to be located within a 5-mile radius of any airport runway must notify the affected airport and the Federal Aviation Administration.

5. A description shall be included of the total existing land use within 3 miles of the facility (by approximate percentage) including, but not limited to:

- a. residential;
- b. health-care facilities and schools;
- c. agricultural;
- d. industrial and manufacturing;
- e. other commercial;
- f. recreational; and
- g. undeveloped.

6. A current aerial photograph, representative of the current land use, of a 1-mile radius surrounding the facility, is required. The aerial photograph shall be of sufficient scale to depict all pertinent features.

7. Facilities located in, or within 1,000 feet of, swamps, marshes, wetlands, estuaries, wildlife-hatchery areas, habitat of endangered species, archaeological sites, historic sites, publicly-owned recreation areas, and similar critical environmental areas shall be isolated from such areas by effective barriers that eliminate probable adverse impacts from facility operations. The following information on environmental characteristics shall be provided:

- a. a list of all known historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter, or as otherwise appropriate;
- b. documentation from the appropriate state and federal agencies substantiating the historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter; and
- c. a description of the measures planned to protect the areas listed from the adverse impact of operation at the facility.

8. Units of a disposal facility that have not received waste prior to October 9, 1993, shall not be located in wetlands, unless the permit holder or applicant can make the following demonstrations to the administrative authority:

- a. where applicable under Section 404 of the Clean Water Act or applicable state wetlands laws, the presumption that a practicable alternative to the proposed landfill is available that does not involve wetlands is clearly rebutted;

b. the construction and operation of the facility will not:

i. cause or contribute to violations of any applicable state water quality standard;

ii. violate any applicable toxic effluent standard or prohibition under Section 307 of the Clean Water Act;

iii. jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Endangered Species Act of 1973; and

iv. violate any requirement under the Marine Protection, Research, and Sanctuaries Act of 1972 for the protection of a marine sanctuary;

c. the facility will not cause or contribute to significant degradation of wetlands. The owner or operator must demonstrate the integrity of the facility and its ability to protect ecological resources by addressing the following factors:

i. erosion, stability, and migration potential of native wetland soils, muds, and deposits used to support the facility;

ii. erosion, stability, and migration potential of dredged and fill materials used to support the facility;

iii. the volume and chemical nature of the waste managed in the facility;

iv. impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste;

v. the potential effects of catastrophic release of waste to the wetland and the resulting impacts on the environment; and

vi. any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected;

d. to the extent required under Section 404 of the Clean Water Act or applicable state wetlands laws, steps have been taken to attempt to achieve no net loss of wetlands (as defined by acreage and function) by first avoiding impacts to wetlands to the maximum extent practicable as required by Paragraph A.8 of this Section; then, minimizing unavoidable impacts to the maximum extent practicable; and, finally, offsetting remaining unavoidable wetland impacts through all appropriate and practicable compensatory mitigation actions (e.g., restoration of existing degraded wetlands or creation of man-made wetlands); and

e. sufficient information is available to make a reasonable determination with respect to these demonstrations.

9. A statement of the estimated population, the source of the estimation, and the population density, within a 3-mile radius of the facility boundary is required of all facilities.

10. Well, Fault, and Utility Requirements for Type I and II Facilities

a. Wells. A map is required showing the locations of all known or recorded shot holes and seismic lines, private water wells, and oil and/or gas wells, operating or abandoned, within the facility and within 2,000 feet of the facility perimeter and the locations of all public water systems, industrial water wells, and irrigation wells within 1 mile of the facility. A plan shall be provided to prevent adverse effects on the environment from the wells and shot holes located on the facility.

b. Faults

i. A scaled map is required showing the locations of all recorded faults within the facility and within 1 mile of the perimeter of the facility.

ii. For faults mapped as existing through the facility, verification of their presence by geophysical mapping or stratigraphic correlation of boring logs is required. If the plane of the fault is verified within the facility's boundaries, a discussion of measures that will be taken to mitigate adverse effects on the facility and the environment is required.

iii. A demonstration, if applicable, is required of alternative fault setback distance. Units of a disposal facility that have not received waste prior to October 9, 1993, shall not be located within 200 feet (60 meters) of a fault that has had displacement in Holocene time unless the permit holder or applicant demonstrates to the administrative authority that an alternate setback distance of less than 200 feet will prevent damage to the structural integrity of the unit and will be protective of human health and the environment.

c. Seismic Impact Zone

i. For a facility located in a seismic impact zone, a report is required with calculations demonstrating that the facility will be designed and operated so that it can withstand the stresses caused by the maximum ground motion, as provided in Clause A.10.c.ii of this Section.

ii. Units of a facility located in a seismic impact zone, which have not received waste prior to October 9, 1993, shall be designed and operated so that all containment structures, including liners, leachate collection systems, and surface water control systems, can withstand the stresses caused by the maximum horizontal acceleration in lithified earth material for the site.

d. Unstable Areas

i. A facility shall not be located in an unstable area unless the permit holder or applicant can demonstrate that the facility is designed to ensure the integrity of structural components, such as liners; leak-detection systems; leachate collection, treatment, and removal systems; final covers; run-on/runoff systems; or any other component used in the construction and operation of the facility that is necessary for the protection of human health or the environment.

ii. In determining whether an area is unstable, the permit holder or applicant must consider, at a minimum, the following factors:

(a) on-site or local soil conditions that may result in significant differential settling;

(b) on-site or local geologic or geomorphological features; and

(c) on-site or local human-made features or events (both surface and subsurface).

e. Utilities. A scaled map showing the location of all pipelines, power lines, and rights-of-way within the site is required.

11. Facilities may be subject to a comprehensive land-use or zoning plan established by local regulations or ordinances.

B. Facility Characteristics. The following facility characteristics are required for Type I and II solid waste facilities, as outlined in LAC 33:VII.521.C.

1. Elements of the disposal system employed shall be provided, including, as applicable, property lines, original

contours (shown at not greater than 5-foot intervals), buildings, units of the facility, drainage, ditches, and roads.

2. Perimeter barriers and other control measures, such as security and signs, shall be provided as follows.

a. Facilities shall have a perimeter barrier around the facility that prevents unauthorized ingress or egress, except by willful entry.

b. During operating hours, each facility entry point shall be continuously monitored, manned, or locked.

c. During non-operating hours, each facility entry point shall be locked.

d. Facilities that receive wastes from off-site sources shall post readable signs that list the types of wastes that can be received at the facility.

3 Buffer Zones

a. Buffer zones of not less than 200 feet shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the adjoining landowner. A copy of the notarized affidavit waiving the buffer zone requirement shall be entered in the mortgage and conveyance records of the parish for the adjoining landowner's property. Buffer zone requirements may be waived or modified by the administrative authority for areas of landfills that have been closed in accordance with these regulations and for existing facilities.

b. No storage, processing, or disposal of solid waste shall occur within the buffer zone.

4. Fire Protection and Medical Care. Facilities shall have access to required fire protection and medical care, or such services shall be provided internally.

5. Landscaping. All facilities, other than those that are located within the boundaries of a plant, industry, or business that generates the waste to be processed or disposed of, shall provide landscaping to improve the aesthetics of the facility.

6. Devices or Methods for Receiving and Monitoring Incoming Wastes

a. All disposal facilities shall be equipped with a device or method to determine quantity (by wet-weight tonnage); sources (whether the waste was generated in-state or out-of-state and, if it is industrial solid waste, where it was generated); and types of incoming waste (i.e., commercial, residential, infectious). All facilities shall also be equipped with a device or method to control entry of the waste and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous waste, TSCA-regulated PCB waste, and unauthorized or unpermitted solid waste). At Type II landfills, this method shall include random inspections of incoming waste loads at a frequency to reasonably ensure exclusion of such prohibited wastes.

b. All facilities shall be equipped with a central control and recordkeeping system for tabulating the information required in Subparagraph B.6.a of this Section.

7. Discharges from operating units of all facilities shall be controlled and shall conform to applicable state and federal laws, including the federal Clean Water Act and Louisiana Water Pollution Control Law. Applications for applicable state and federal discharge permits shall be filed before a standard permit may be issued.

8. Additional information for facilities is required as follows:

a. areas for isolating nonputrescible waste or incinerator ash, and borrow areas; and

b. location of leachate collection/treatment/removal system.

C. Facility geology standards are located in LAC 33:VII.Chapter 8.

D. Implementation Plans. The implementation plans for all facilities shall include the following:

1. construction schedules for existing facilities, which shall include beginning and ending time frames and time frames for the installation of all major features such as monitoring wells and liners. Time frames shall be specified in days, with day one being the date of standard permit issuance;

2. details on phased implementation if any proposed facility is to be constructed in phases; and

3. a plan for closing and upgrading existing operating areas if the application is for expansion of a facility or construction of a replacement facility.

E. Groundwater monitoring requirements shall be in accordance with LAC 33:VII.Chapter 8.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1315 (October 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2490 (October 2005), LR 33:1045 (June 2007).

§711. Standards Governing Landfills (Type I and II)

A. Surface Hydrology

1. Facilities located in a 100-year flood plain shall be filled to bring site elevation above flood levels, or perimeter levees or other measures must be provided to maintain adequate protection against a 100-year flood.

2. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility.

3. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not received final cover. The proposed system shall be designed for a 24-hour/25-year storm event.

4. Facilities located in a 100-year flood plain shall not restrict the flow of a 100-year flood or significantly reduce the temporary water-storage capacity of the flood plain, and the design shall ensure that the flooding does not affect the integrity of the facility or result in the washout of solid waste so as to pose a threat to human health and the environment.

5. Runoff from operating areas or areas that contain solid waste and have not yet received interim compacted cover or final cover shall be considered contaminated and shall not be allowed to mix with noncontaminated surface runoff.

6. A run-on control system shall be installed to prevent run-on during the peak discharge from a 24-hour/25-year storm event.

B. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the

supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Daily and Interim Cover Requirements

a. Cover material shall:

i. minimize vector-breeding areas and animal attraction by controlling:

(a). fly, mosquito, and other insect emergence and entrance;

(b). rodent burrowing for food and harborage; and

(c). bird and animal attraction;

ii. control leachate generation by:

(a). minimizing external-moisture infiltration;

(b). minimizing erosion; and

(c). utilizing materials with minimum free-liquid content;

iii. reduce fire-hazard potential;

iv. minimize blowing paper and litter;

v. reduce noxious odors by minimizing outward movement of methane and other gases;

vi. provide an aesthetic appearance to the landfill operation; and

vii. allow accessibility regardless of weather.

b. Silty or sandy clays applied a minimum of 6 inches thick at the end of each operating day are satisfactory for daily cover, and silty clays applied a minimum of 1 foot thick are satisfactory for interim cover.

c. Alternative daily cover, interim cover, or interim compacted cover materials may be approved by the administrative authority provided the standards of Subparagraph B.2.a of this Section are met. The administrative authority reserves the right to require testing to confirm acceptability. The administrative authority may waive the requirements for daily cover, for Type I landfills only, if the permit holder or applicant can demonstrate that the nature of the waste is such that daily cover is not necessary. Daily cover requirements may not be waived for Type II landfills.

d. Alternative daily cover, interim cover, and interim compacted cover materials submitted for approval shall be available on a regular basis and demonstrate reasonably consistent composition and performance characteristics.

e. Interim cover or interim compacted cover shall be applied on all operating areas of a facility that will not receive solid waste for a period longer than 60 days. Interim cover or interim compacted cover must be applied within 48 hours of the last receipt of solid waste in the operating area. Facilities that provide interim cover or interim compacted cover shall also implement an erosion control plan.

f. Daily and interim cover shall be applied and maintained in a condition that meets the purposes of Subparagraph B.2.a of this Section.

g. The source of daily and interim cover must be accessible regardless of weather.

3. Levee Construction

a. Levees or other protective measures shall be provided in order to protect the facility against a 100-year flood.

b. If levees are required to protect the facility against a 100-year flood, such perimeter levees shall be engineered to minimize wind and water erosion and shall

have a grass cover or other protective cover to preserve structural integrity and shall provide adequate protection against a 100-year flood.

4. Leachate Control, Collection, Treatment, and Removal Systems

a. Leachate shall not be managed by allowing the leachate to be absorbed in the waste, unless it is a part of leachate recirculation or other approved technology.

b. Infiltration of water into the waste shall be minimized by daily, interim, and final cover, as required by these regulations.

c. The impact of leachate on the environment shall be minimized by a leachate collection and removal system and a leachate treatment system designed to ensure positive removal and treatment of generated leachate.

d. Leachate removed shall be handled in such a manner that it does not adversely affect the environment.

e. Migration of leachate shall be prevented by liners or other barriers.

f. The following minimum standards apply to leachate collection and removal systems.

i. The leachate collection system shall be located above the primary liner.

ii. All leachate collection pipes shall be perforated, a minimum of 6 inches in diameter, and constructed of materials resistant to the leachate.

iii. Leachate cleanout risers or manholes shall be provided for each leachate collection line. The maximum length of leachate collection lines shall not exceed the capabilities of the cleanout device.

iv. A granular leachate collection drainage blanket, consisting of a natural or a synthetic material with permeability of 1×10^{-3} cm/sec or higher, shall be provided to trap fines and prevent waste from entering the drainage layer while allowing the passage of leachate. If natural material is used for the drainage blanket, the thickness of the material shall be at least 12 inches, unless otherwise approved by the administrative authority. If synthetic material is used, sufficient thickness of buffer material shall be placed over the synthetic material to provide protection for the liner system.

v. The flow path of leachate on the liner surface shall be no greater than 100 feet to the point of collection. (For the purpose of determining this distance, the permit holder or applicant may assume that the leachate flow path is perpendicular to the leachate collection pipe.)

vi. The slope on the surface of the liner toward the leachate collection lines shall be a minimum of two percent.

vii. The slope of all leachate collection pipes shall be a minimum of one percent.

viii. The leachate head shall be maintained in a pumped-down condition such that not more than 1 foot of head shall exist above the lowest elevation of the leachate collection lines.

ix. The equipment used to remove leachate from the collection system shall be adequately sized to accommodate normal facility operations.

x. Trenches or swales shall be provided to protect the leachate collection pipes.

xi. The leachate collection lines shall be sloped down toward the perimeter of the unit. However, other

designs may be approved depending on site-specific conditions.

xii. An adequate thickness of gravel shall be placed on all sides of the leachate pipes.

xiii. Gravel size shall be selected to ensure that it is larger than the perforations in the collection pipe.

xiv. The migration of fines into the tops of the trenches shall be minimized by a properly designed, graded soil filter or geotextile.

xv. Materials such as limestone and dolomite shall not be used in the leachate collection system. However, the administrative authority may allow alternate materials to be used in construction of the leachate collection system if the permit holder or applicant can demonstrate that the materials can provide equivalent or superior performance.

xvi. Leachate lines (and other engineering structures) shall not penetrate the liner, unless the permit holder or applicant can demonstrate that special or unusual circumstances warrant liner penetration.

xvii. An antiseep collar shall be placed around the leachate line that penetrates the liner. A minimum of 3 feet of recompacted clay or equivalent material shall be placed around the collar.

xviii. All leachate transfer (force-main) lines shall be pressure tested prior to their use.

xix. All control systems for pumps, valves, and meters shall be designed to be operated from the ground level.

5. Liners

a. The permit holder or applicant shall provide and implement a quality-assurance/quality-control plan for liner construction and maintenance that will ensure that liners are designed, constructed, installed, and maintained properly. All facilities shall have quality-assurance/quality-control plans for the excavations. All excavations and liners shall be inspected and certified by a professional engineer, licensed in the state of Louisiana, with the appropriate expertise.

b. The permit holder or applicant must demonstrate that the liner is placed upon a base that provides the following:

i. adequate support for the contents;

ii. maximum resistance to settlement of a magnitude sufficient to affect the integrity of the liner or the proper positioning of the leachate collection or leak-detection system;

iii. maximum resistance to hydrostatic heave on the sides or bottom of the excavation; and

iv. maximum resistance to desiccation.

c. Units of landfills shall be lined along the sides and bottom with a liner system installed under the supervision of a professional engineer, licensed in the state of Louisiana and with the appropriate expertise, which consists of the following, in descending order:

i. a leachate collection system designed and constructed in accordance with Paragraph B.4 of this Section; and

ii. a composite liner that consists of a geomembrane liner at least 30-mil thick installed directly above and in uniform contact with a 3-foot recompacted clay liner having a hydraulic conductivity no greater than 1×10^{-7} cm/sec (If the geomembrane component is high-density polyethylene, then the geomembrane component must be at

least 60-mil thick. Any geomembrane liner used must be compatible with the solid waste and leachate in the unit.); or

iii. an alternative liner system that provides equivalent or greater groundwater protection at the site as compared to the composite liner design in Clause B.5.c.ii of this Section, as demonstrated by generally accepted modeling techniques and based on factors specific to the site and to the solid wastes received. The burden of proof of adequacy of the alternate liner design shall be on the permit holder or applicant.

d. Special design conditions may be required in areas where circumstances warrant such conditions, as determined by the administrative authority. These special design standards may include more protective or stringent standards.

6. Gas Collection/Treatment or Removal System

a. Each unit of the facility with a potential for methane gas production and migration may be required to provide a gas collection/treatment or removal system.

b. If the facility is subject to 40 CFR Part 60, Subpart WWW, then installation of a collection and control system that captures generated gas within the landfill is required.

c. If the facility is not subject to 40 CFR Part 60, Subpart WWW, a gas collection/treatment or removal system shall be such that it limits methane gas to lower-explosive limits at the facility boundary and to 25 percent of the lower explosive limits in facility buildings.

d. Sampling protocol, chain of custody, and test methods shall be established for all gas collection/treatment or removal systems.

C. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in wet-weight tons per year, or for landfills, expressed in both wet- and dry-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. The annual disposer's report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period and to determine remaining capacity shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the disposer annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual reporting form.

e. A facility that receives industrial solid waste shall utilize, in its annual report, the appropriate industrial waste code number.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

- i. copies of the applicable Louisiana solid waste rules and regulations;
- ii. the permit;
- iii. the permit application;
- iv. permit modifications;
- v. certified field notes for construction;
- vi. operator training programs;
- vii. daily log;
- viii. quality-assurance/quality-control records;
- ix. inspections by the permit holder or operator, including, but not limited to, inspections to detect incoming hazardous waste loads;

x. operator certificates from the Board of Certification and Training for Solid Waste Disposal System Operators, if applicable;

xi. records demonstrating that liners, leachate-control systems, and leak-detection and cover systems are constructed or installed in accordance with appropriate quality assurance procedures;

xii. records on the leachate volume and results of the leachate sampling;

xiii. monitoring, testing, or analytical data;

xiv. any other applicable or required data deemed necessary by the administrative authority;

xv. records on groundwater sampling results;

xvi. post-closure monitoring reports; and

xvii. copies of all documents received from and submitted to the department.

3. Personnel

a. Facilities shall have the personnel necessary to achieve the operational requirements of the facility. All personnel involved in waste handling at the facility must be trained adequately in procedures to recognize and exclude receipt or disposal of hazardous wastes and PCB wastes.

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

D. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste and TSCA-regulated PCB waste shall be strictly prohibited and prevented. Permit holders of Type II landfills must implement a program of random inspections of incoming loads to detect and prevent the disposal of hazardous waste or PCB waste and must keep records of these inspections. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Open burning of solid waste shall not be practiced at Type I or II landfills.

c. Salvaging shall be prevented unless approved by the administrative authority.

d. Scavenging shall be prevented.

e. Infectious waste from hospitals or clinics may be deposited in Type I or II landfills only if it has been properly packaged and identified and is treated by a method approved by the Department of Health and Hospitals.

f. Grazing of domestic livestock shall not be allowed in the vicinity of active landfill units or units under closure or post closure.

g. Except as otherwise provided in this Subparagraph, liquid wastes shall not be disposed of in a landfill, and facilities that plan to accept liquid wastes shall provide a means for solidifying them and an appropriate quality-assurance/quality-control program. The only bulk or non-containerized liquid that may be placed in a landfill is residential waste (excluding septic waste), leachate and gas condensate that is derived from the landfill, and liquid from a leachate recirculation operation.

h. Residential, commercial, and other wastes deemed acceptable by the administrative authority on a site-specific basis may be disposed of in Type I and II landfills. A comprehensive quality-assurance/quality-control plan shall be provided for facilities receiving asbestos-containing waste and dewatered domestic wastewater treatment plant sludge.

i. No solid waste shall be deposited in standing water.

j. Industrial solid waste, incinerator ash, and nonhazardous petroleum-contaminated media and debris generated by underground storage tanks (UST) corrective action shall be disposed of or processed only in Type I or Type I-A facilities. A comprehensive quality-assurance/quality-control plan shall be in place before the receipt of these wastes.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of disposal operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed or disposed of within a unit;

c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.);

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented;

e. the sampling protocol, chain of custody, and test methods that will be used in the gas-monitoring systems;

f. the methods that will be used to ensure that the grade and slope of both the on-site drainage system and the

run-on diversion system are maintained and serve their intended functions;

g. the methods that will be used to ensure that the leachate collection/treatment system is functioning as designed; and

h. the measuring protocol to be used and the frequency with which the depth of leachate within the collection system will be checked, as well as how the leachate will be removed and transported to the treatment facility.

3. Facility Operational Standards

a. Air-Monitoring Standards

i. Facilities receiving waste with a potential to produce methane gas shall be subject to the air-monitoring requirements.

ii. The permit holder or applicant subject to air-monitoring requirements shall submit to the Office of Environmental Services, Waste Permits Division, a comprehensive air-monitoring plan that will limit methane gas levels to less than the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

(a). The type and frequency of monitoring shall be determined based on the following factors:

(i). soil conditions;

(ii). hydrogeologic conditions surrounding the facility;

(iii). hydraulic conditions surrounding the facility; and

(iv). the locations of facility structures and property boundaries.

(b). The minimum frequency of monitoring shall be quarterly.

iii. If methane gas levels exceeding the limits specified in Clause D.3.a.ii of this Section are detected, the permit holder shall:

(a). immediately take all necessary steps to ensure protection of human health and notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923;

(b). within 30 days of detection, submit a remediation plan to the Office of Environmental Assessment, Environmental Technology Division, for the methane gas releases. The plan shall describe the nature and extent of the problems and the proposed remedy and shall include an implementation schedule. The plan shall be implemented within 60 days of detection.

iv. The permit holder shall make prompt notification to the Office of Environmental Compliance in accordance with LAC 33:I.3923 when strong odors occur at facility boundaries.

v. Records of inspections, surveys, and gas monitoring results shall be maintained at the facility.

vi. Odors shall be controlled by the best means practicable.

vii. Facilities shall ensure that the units do not violate any applicable requirements developed under a state implementation plan (SIP) approved or promulgated in accordance with Section 110 of the Clean Air Act, as amended.

b. Waste shall be deposited under facility supervision in the smallest practicable area, spread in layers,

and compacted to approximately two feet thick or, if baled, stacked and daily cover applied.

c. Vector Control

i. Food or harborage shall be denied to rats, insects, and birds to the extent possible by using proper cover or other means acceptable on a site-specific basis. Where necessary, an approved pesticide shall be applied in accordance with applicable state and federal laws.

ii. A schedule of the type and frequency of vector control measures to be used shall be submitted to the Office of Environmental Services, Waste Permits Division, for approval in the operational plan.

d. Waste Characterization. Hazardous waste determination, in accordance with LAC 33:V.1103, shall be performed by the generator on all solid waste going to disposal facilities, prior to acceptance of the solid waste and annually for two years following acceptance. Every year thereafter, the generator shall certify that the waste remains unchanged.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

5. Segregation of Wastes

a. White goods may be stored in a unit separate from other solid wastes and shall be removed every 30 days. The facility shall maintain a log of dates and volumes of white goods removed from the facility.

b. Tree limbs, leaves, clippings, and similar residues may be segregated and deposited in a permitted unit separate from other solid waste and shall be covered every 30 days, or more often if necessary to control blowing and prevent rodent harborage.

c. Construction material and woodwastes may be deposited in a permitted unit separate from other solid wastes and covered every 30 days. This unit must meet the standards provided in LAC 33:VII.719 and 721.

6. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.6.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type I facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department as to whether or not that department has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association;

(b). emergency medical services agency as to whether or not that agency has the ability to meet the

response requirements of Section 473 of the Life Safety Code of the National Fire Protection Association; and

(c). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.6.c.i of this Section, the applicant for a Type I facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.6.c.i of this Section.

iii. The requirements of Clauses D.6.c.i and ii of this Section shall not apply if the applicant for a Type I facility has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association.

d. Applicants for Type II facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.6.d.i of this Section, the applicant for a Type II facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.6.d.i of this Section.

iii. The provisions of this Subparagraph shall not apply to a Type I facility that is also a Type II facility.

e. Facility operators for a Type II facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

- a. the date of the planned closure;
- b. changes, if any, requested in the approved closure plan; and
- c. the closure schedule and estimated cost.

2. Preclosure Requirements

a. Final cover installation shall be initiated no later than 30 days after and shall be completed no later than 90 days after final grades are reached in each unit of a facility or the date of known final receipt of solid waste in the unit, whichever comes first. These deadlines may be extended by the administrative authority if necessary due to inclement weather or other circumstances to a maximum of 60 days for initiation and a maximum of 180 days for completion.

b. Standing water shall be solidified or removed.

c. The runoff-diversion system shall be maintained until the final cover is installed.

d. The runoff-diversion system shall be maintained and modified to prevent overflow of the landfill to adjoining areas.

e. Insect and rodent inspection is required to be documented before installation of final cover, and extermination measures must be provided if required as a result of the facility inspection.

f. Final compaction and grading shall be completed before capping.

g. All facilities with a potential for gas production or migration shall provide a gas collection/treatment or removal system.

3. Closure Requirements

a. Final Cover

i. Final cover shall be placed on top of the daily or intermediate cover that is used as the grading layer to provide a stable base for subsequent layers.

ii. Final cover shall be a minimum of 24 inches of recompacted clay with a permeability of less than 1×10^{-7} cm/sec overlain with an approved geomembrane covering the entire area. Areas that are steeper than 4:1 slope do not require geomembrane overlay.

iii. The Office of Environmental Compliance, Surveillance Division, shall be notified after the final cover is applied.

iv. A minimum of 6 inches of topsoil shall be placed on top of the soil cover to support vegetative growth to prevent erosion.

v. Other covers that satisfy the purposes of minimizing infiltration of precipitation, fire hazards, odors, vector food and harborage, as well as discouraging scavenging and limiting erosion, may be submitted for consideration by the administrative authority.

vi. Alternate final cover used in accordance with Clause E.3.a.v of this Section must provide performance equivalent to or better than the final cover requirements in Clauses E.3.a.ii and iv of this Section.

vii. The side slopes shall be no steeper than 3(H):1(V) and the top of the final cap shall be at minimum a four percent slope, for proper maintenance and drainage.

b. After a closure inspection and approval, the permit holder shall plant a ground cover to prevent erosion and to return the facility location to a more natural appearance.

c. Landfills must be closed in a manner that minimizes the need for further maintenance and minimizes the post-closure release of leachate to groundwaters or surface waters to the extent necessary to protect human health and the environment. Quality-assurance/quality-control procedures shall be developed and implemented to ensure that the final cover is designed, constructed, and installed properly.

d. The permit holder shall update the parish mortgage and conveyance records by recording the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with knowledge of the contents of the facility. An example of the form to be used for this purpose is provided in LAC 33:VII.3011.Appendix F. The facility shall provide the Office of Environmental Services, Waste Permits Division,

with a true copy of the document filed and certified by the parish clerk of court.

4. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services, Waste Permits Division, approves closure. The length of the post-closure care period for landfills may be:

a. decreased by the administrative authority if the permit holder demonstrates that the reduced period is sufficient to protect human health and the environment in accordance with LAC 33:I.Chapter 13, and this demonstration is approved by the administrative authority (Any demonstration must provide supporting data, including adequate groundwater monitoring data.); or

b. increased by the administrative authority if the administrative authority determines that the lengthened period is necessary to protect human health and the environment in accordance with LAC 33:I.Chapter 13.

2. Post-Closure Care Length

a. Facilities that receive solid waste on or after October 9, 1993, must remain in post-closure care for 30 years after closure of the facility.

b. Existing facilities that do not receive waste on or after October 9, 1993, must remain in post-closure care for three years after closure of the facility.

c. However, if the facility received waste on or after October 9, 1991, the final cover must be maintained as specified in Subparagraph F.3.a of this Section for 30 years after closure.

3. The post-closure care, except as otherwise specified above, must consist of at least the following:

a. maintaining the integrity and effectiveness of the final cover (including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events), preventing run-on and runoff from eroding or otherwise damaging the final cover; and providing annual reports to the Office of Environmental Services, Waste Permits Division, on the integrity of the final cap (The Office of Environmental Compliance, Environmental Technology Division, shall be notified of any problems and corrective action measures associated with the integrity and effectiveness of the final cover.);

b. maintaining and operating the leachate collection and removal system, until leachate is no longer generated or until the permit holder can demonstrate that the leachate no longer poses a threat to human health or the environment in accordance with LAC 33:I.Chapter 13;

c. maintaining and operating the gas collection/treatment or removal system and the gas-monitoring system; and

d. maintaining the groundwater-monitoring system and monitoring the groundwater in accordance with LAC 33:VII.805.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2523 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2492 (October 2005), LR 33:1047 (June 2007).

§713. Standards Governing Surface Impoundments (Type I and II)

A. Surface Hydrology

1. Facilities located in a 100-year flood plain shall be filled to bring site elevation above flood levels, or perimeter levees or other measures must be provided to maintain adequate protection against a 100-year flood.

2. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility.

3. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not received final cover. The proposed system must be designed for a 24-hour/25-year storm event. Adequate freeboard shall be provided to prevent overtopping by wave action.

4. Facilities located in a 100-year flood plain shall not restrict the flow of the 100-year flood or significantly reduce the temporary water-storage capacity of the flood plain, and the design shall ensure that the flooding does not affect the integrity of the facility or result in the washout of solid waste so as to pose a threat to human health and the environment.

5. Surface run-on from outside the facility shall be diverted and prevented from entering the facility, with provisions for maintaining adequate freeboard above the requirements of Paragraph A.1 of this Section. A run-on control system shall be installed to prevent run-on during the peak discharge from a 24-hour/25-year storm event.

6. Existing surface impoundments, including existing ditches that receive solid waste, that are designed to collect or transport run-on (e.g., storm water) are not required to comply with any of the requirements of LAC 33:VII.713.A.3, 4, and 5. This Subsection does not relieve such facilities from compliance with the Louisiana water quality regulations (LAC 33:Part IX).

B. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Levee Construction

a. Levees or other protective measures must be provided in order to protect the facility against a 100-year flood.

b. If levees are required to protect the facility against a 100-year flood, such perimeter levees shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity and shall provide adequate protection against a 100-year flood.

3. Liners

a. Liners for Type I and II proposed surface impoundments and for surface impoundments constructed subsequent to December 31, 1997, must comply with these standards. (Units of surface impoundments on which construction is completed prior to December 31, 1997, and that have received a temporary permit or standard permit prior to February 1, 1993, are not governed by these liner standards.)

b. The permit holder or applicant shall provide and implement a quality-assurance/quality-control plan for liner construction and maintenance that will ensure that liners are designed, constructed, installed, and maintained properly. All facilities shall have quality-assurance/quality-control plans for the excavations. All excavations and liners shall be inspected and certified by a professional engineer, licensed in the state of Louisiana, with the appropriate expertise.

c. The permit holder or applicant must demonstrate that the liner is placed upon a base that provides the following:

- i. adequate support for the contents;
- ii. maximum resistance to settlement of a magnitude sufficient to affect the integrity of the liner or the proper positioning of the leachate-collection or leak-detection system;
- iii. maximum resistance to hydrostatic heave on the sides or bottom of the excavation; and
- iv. maximum resistance to desiccation.

d. Units of surface impoundments shall be lined along the sides and bottom with a composite liner consisting of a geomembrane liner at least 30-mil thick installed directly above and in uniform contact with a 3-foot recompacted clay liner having a hydraulic conductivity no greater than 1×10^{-7} cm/sec that has been installed under the supervision of a professional engineer, licensed in the state of Louisiana and with the appropriate expertise. (If the geomembrane component is high-density polyethylene, then the geomembrane component must be at least 60-mil thick. Any geomembrane liner used must be compatible with the solid waste and leachate in the unit.) An alternative liner system that provides equivalent or greater groundwater protection at the site as compared to the composite liner, as demonstrated by generally accepted modeling techniques and based on factors specific to the site and to the solid wastes received, may be used. The burden of proof of adequacy of the alternate liner design shall be on the permit holder or applicant.

e. Special design conditions may be required in areas where circumstances warrant such conditions, as determined by the administrative authority. These special design standards may include more protective or stringent standards.

4. Gas Collection/Treatment or Removal System. The following standards apply to Type I and II surface impoundments not performing clean closure.

a. Each unit of the facility with a potential for methane gas production and migration shall be required to provide a gas collection/treatment or removal system.

b. If the facility is subject to 40 CFR Part 60, Subpart WWW, then installation of a collection and control system that captures generated gas within the surface impoundment is required.

c. If the facility is not subject to 40 CFR Part 60, Subpart WWW, a gas collection/treatment or removal system shall be such that it limits methane gas to lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

d. Sampling protocol, chain of custody, and test methods shall be established for all gas collection/treatment or removal systems.

C. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. If applicable, the annual disposer's report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal and to determine remaining capacity during the annual-reporting period shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the processor and/or disposer annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual-reporting form.

e. A facility that receives industrial solid waste shall utilize, in its annual report, the appropriate industrial waste code number.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

- i. copies of the applicable Louisiana solid waste rules and regulations;
- ii. the permit;
- iii. the permit application;
- iv. permit modifications;
- v. certified field notes for construction;
- vi. operator training programs;
- vii. daily log;
- viii. quality-assurance/quality-control records;

- ix. inspections by the permit holder or operator;
- x. operator certificates from the Board of Certification and Training for Solid Waste Disposal System Operators, if applicable;
- xi. records demonstrating that liners and leak-detection and cover systems are constructed or installed in accordance with appropriate assurance procedures;
- xii. monitoring, testing, or analytical data;
- xiii. any other applicable or required data deemed necessary by the administrative authority;
- xiv. records on groundwater sampling results;
- xv. post-closure monitoring reports; and
- xvi. copies of all documents received from or submitted to the department.

3. Personnel

- a. Facilities shall have the personnel necessary to achieve the operational requirements of the facility.
- b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

D. Facility Operations

1. Facility Limitations

- a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.
- b. Open burning shall not be practiced unless authorization is first obtained from the administrative authority and any other applicable federal, state, and local authorities.
- c. Salvaging shall be prevented unless approved by the administrative authority.
- d. Scavenging shall be prevented.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of disposal operations. At a minimum, the plan shall address:

- a. the route the waste will follow after receipt;
- b. the sequence in which the waste will be processed or disposed of within a unit;
- c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.);
- d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented;
- e. the sampling protocol, chain of custody, and test methods that will be used in the gas-monitoring systems;
- f. the methods that will be used to ensure that the grade and slope of both the on-site drainage system and the run-on diversion system are maintained and serve their intended functions;
- g. the methods that will be used to ensure that the designed capacity of the impoundment remains unchanged; and

h. the methods and inspection frequencies that will be used to establish that the levees and required freeboards are maintained.

3. Facility Operational Standards

a. Air-Monitoring Standards

i. Facilities receiving waste with a potential to produce methane gas shall be subject to the air-monitoring requirements.

ii. The permit holder or applicant subject to air-monitoring requirements shall submit to the Office of Environmental Services, Waste Permits Division, a comprehensive air-monitoring plan that will limit methane gas levels to less than the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

(a). The type and frequency of monitoring shall be determined based on the following factors:

- (i). soil conditions;
- (ii). hydrogeologic conditions surrounding the facility;
- (iii). hydraulic conditions surrounding the facility; and
- (iv). the locations of the facility structures and property boundaries.

(b). The minimum frequency of monitoring shall be quarterly.

iii. If methane gas levels exceeding the limits specified in Clause D.3.a.ii of this Section are detected, the owner or operator shall:

(a). immediately take all necessary steps to ensure protection of human health and notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923; and

(b). within 30 days of detection, submit a remediation plan for the methane gas releases to the Office of Environmental Assessment, Environmental Technology Division. The plan shall describe the nature and extent of the problem and the proposed remedy, and shall include an implementation schedule. The plan shall be implemented within 60 days of detection.

iv. The permit holder shall make prompt notification to the Office of Environmental Compliance in accordance with LAC 33:I.3923 when strong odors occur at facility boundaries or when methane gas levels exceed the limit specified in Clause D.3.a.ii of this Section.

v. Records of inspections, surveys, and gas monitoring results shall be maintained at the facility.

vi. Odors shall be controlled by the best means practicable.

vii. Facilities shall ensure that the units not violate any applicable requirements developed under a state implementation plan (SIP) approved or promulgated in accordance with Section 110 of the Clean Air Act, as amended.

b. Surface impoundments shall be designed, constructed, maintained, and operated to prevent overtopping by overfilling, wave action, or action of storms.

c. Surface impoundments shall be inspected daily and after storms to detect evidence of deterioration of the dikes and levees, overtopping, malfunctions, or improper

operation. Excessive vegetative growth that prevents proper access, inspection, or operation, or may provide a conduit for groundwater contamination shall be removed.

d. If a leak in an impoundment is found, the administrative authority shall be notified in accordance with LAC 33:I.Chapter 39.

e. Waste Characterization. Hazardous waste determination, pursuant to LAC 33:V.1103, shall be performed by the generator on all solid waste going to disposal facilities, prior to acceptance of the solid waste and annually for two years following acceptance. Every year thereafter, the generator shall certify that the waste remains unchanged.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type I facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department as to whether or not that department has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association;

(b). emergency medical services agency as to whether or not that agency has the ability to meet the response requirements of Section 473 of the Life Safety Code of the National Fire Protection Association; and

(c). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.5.c.i of this Section, the applicant for a Type I facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.5.c.i of this Section.

iii. The requirements of Clauses D.5.c.i and ii of this Section shall not apply if the applicant for a Type I facility has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association.

d. Applicants for Type II facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.5.d.i of this Section, the applicant for a Type II facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.5.d.i of this Section.

iii. The provisions of this Subparagraph shall not apply to a Type I facility that is also a Type II facility.

e. Facility operators for a Type II facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

a. the date of the planned closure;

b. changes, if any, requested in the approved closure plan; and

c. the closure schedule and estimated cost.

2. Preclosure Requirements. The following standards apply to preclosure requirements for surface impoundments with on-site closure.

a. All facilities with a potential for gas production or migration shall provide a gas collection/treatment or removal system.

b. The runoff-diversion system shall be maintained and modified to prevent overflow of the facility to adjoining areas.

3. Closure Requirements

a. Surface liquids and sludges containing free liquids shall be dewatered or removed.

b. If a clean closure is achieved, there are no further post-closure requirements. The closure plan shall reflect a method for determining that all waste has been removed and such a plan shall, at a minimum, include the following:

i. identification (waste analysis) of the wastes that have entered the facility;

ii. selection of the indicator parameters to be sampled that are intrinsic to the wastes that have entered the facility in order to establish clean-closure criteria. Justification of the parameters selected shall be provided in the closure plan;

iii. sampling and analyses of the uncontaminated soils in the general area of the facility for a determination of background levels using the indicator parameters selected. A diagram showing the location of the area proposed for the background sampling, along with a description of the sampling and testing methods, shall be provided and the Office of Environmental Compliance, Surveillance Division, shall be notified at least five days prior to any sampling event;

iv. a discussion of the sampling and analyses of the "clean" soils for the selected parameters after the waste and contaminated soils have been excavated. Documentation regarding the sampling and testing methods (i.e., including a plan view of the facility, sampling locations, and sampling quality-assurance/quality-control programs) shall be provided;

v. a discussion of a comparison of the samples from the area of the excavated facility to the background samples, or applicable RECAP standards. Concentrations of the selected parameters of the bottom and side soil samples of the facility shall be equal to or less than the background samples or applicable RECAP non-industrial standards to meet clean closure criteria;

vi. analyses to be sent to the Office of Environmental Services, Waste Permits Division, confirming that clean closure has been achieved;

vii. identification of the facility to be used for the disposal of the excavated waste; and

viii. a statement from the permit holder indicating that, after the closure requirements have been met, the permit holder will file a request for a closure inspection with the Office of Environmental Services, Waste Permits Division, before backfilling takes place. The administrative authority shall determine whether the facility has been closed properly.

c. If solid waste remains at the facility a final cover shall be required that meets the following standards.

i. Final cover shall be a minimum of 24 inches of recompacted clay with a permeability of less than 1×10^{-7} cm/sec overlain with an approved geomembrane covering the entire area. Areas that are steeper than 4:1 slope do not require geomembrane overlay.

ii. The Office of Environmental Compliance, Surveillance Division, shall be notified after the final cover is applied.

iii. A minimum of 6 inches of topsoil shall be placed on top of the soil cover to support vegetative growth to prevent erosion.

iv. Other covers that satisfy the purposes of minimizing infiltration of precipitation, fire hazards, odors, vector food and harborage, as well as discouraging scavenging and limiting erosion, may be submitted for consideration and approval by administrative authority.

v. Alternate final cover used in accordance with Clause E.3.c.iv of this Section must provide performance equivalent to or better than the final cover requirements in Clauses E.3.c.i and iii of this Section.

vi. The finished grade shall be sufficiently sloped for proper maintenance and drainage.

vii. All facilities with a potential for gas production or migration shall provide a gas collection/treatment or removal system.

d. After a closure inspection and approval, the permit holder shall plant a ground cover to prevent erosion and to return the facility location to a more natural appearance.

e. Surface impoundments shall be closed in a manner that minimizes the need for further maintenance and minimizes the post-closure release of leachate to groundwaters or surface waters to the extent necessary to protect human health and the environment. Quality-

assurance/quality-control procedures shall be developed and implemented to ensure that the final cover is designed, constructed, and installed properly.

4. Alternate Closure Standards. The administrative authority may allow alternative closure under the following conditions.

a. If levels of contamination at the time of closure meet non-industrial standards as specified in LAC 33:I.Chapter 13 and approval of the administrative authority is granted, the requirements of Subparagraph E.4.b and Subsection F of this Section shall not apply.

b. If levels of contamination at the time of closure meet industrial standards as specified in LAC 33:I.Chapter 13 and approval of the administrative authority is granted, the requirements of this Paragraph and Subsection F of this Section shall apply.

5. With the exception of those sites clean closed or closed in accordance with Subparagraph E.4.a of this Section, within 90 days after a closure is completed, the permit holder shall have entered in the mortgage and conveyance records of the parish in which the property is located, a notation stating that solid waste remains at the site and providing the indicator levels obtained during closure.

6. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services, Waste Permits Division, approves closure. The length of the post-closure care period for surface impoundments may be:

a. decreased by the administrative authority if the permit holder demonstrates that the reduced period is sufficient to protect human health and the environment in accordance with LAC 33:I.Chapter 13 and this demonstration is approved by the administrative authority (Any demonstration must provide supporting data, including adequate groundwater monitoring data.); or

b. increased by the administrative authority if the administrative authority determines that the lengthened period is necessary to protect human health and the environment in accordance with LAC 33:I.Chapter 13.

2. The following standards regarding post-closure requirements apply to surface impoundments with on-site closure and alternative closure standards.

a. Post-Closure Care Length

i. Facilities that receive solid waste on or after October 9, 1993, must remain in post-closure care for 30 years after closure of the facility.

ii. Existing facilities that do not receive waste on or after October 9, 1993, must remain in post-closure care for three years after closure of the facility.

iii. However, if the facility received waste on or after October 9, 1991, the final cover must be maintained as specified in Subparagraph F.2.b of this Section for 30 years after closure.

b. The post-closure care, except as otherwise specified above, must consist of at least the following:

i. maintaining the integrity and effectiveness of the final cover (including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events), preventing run-on and runoff from eroding or otherwise damaging the final cover; and providing annual reports to the Office of Environmental Services, Waste Permits Division, on the integrity of the final cap;

ii. maintaining and operating, if applicable, the leak-detection system;

iii. maintaining and operating the gas collection/treatment or removal system and the gas-monitoring system; and

iv. maintaining the groundwater-monitoring system and monitoring the groundwater in accordance with LAC 33:VII.805.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2524 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2493 (October 2005), LR 33:1053 (June 2007).

§715. Standards Governing Landfarms (Type I and II)

A. Surface Hydrology

1. Facilities located in a 100-year flood plain shall be filled to bring site elevation above flood levels, or perimeter levees or other measures shall be provided to maintain adequate protection against a 100-year flood.

2. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility.

3. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not completed the post-closure period to adjoining areas during a 24-hour/25-year storm event.

4. Facilities located in a 100-year flood plain shall not restrict the flow of a 100-year flood or significantly reduce the temporary water-storage capacity of the flood plain, and the design shall ensure that the flooding does not affect the integrity of the facility or result in the washout of solid waste so as to pose a threat to human health and the environment.

5. A run-on control system shall be installed to prevent run-on during the peak discharge from a 24-hour/25-year storm event.

6. Land slope shall be controlled to prevent erosion.

7. The topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility.

B. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Levee Construction

a. Levees or other protective measures shall be provided in order to protect the facility against a 100-year flood.

b. If levees are required to protect the facility against a 100-year flood, such perimeter levees of all facilities shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity and shall provide adequate protection against a 100-year flood.

C. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in wet-weight and dry-weight tons per year) received from in-state generators and from out-of-state generators during the reporting period. The annual disposer's report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the disposer annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual-reporting form.

e. A facility that receives industrial solid waste shall utilize, in its annual report, the appropriate industrial waste code number.

f. The following reports shall be submitted to the Office of Environmental Assessment, Environmental Technology Division:

i. a copy of the semiannual soil waste mixtures tests and analyses of the results with conclusions, submitted semiannually, or more frequently if deemed necessary by the administrative authority. Test parameters shall consist of soil pH, total nitrogen, phosphorus, organic matter, salts (intrinsic to the waste), cumulative metals, and others as deemed necessary on a site- and waste-specific basis;

ii. annual reports of the analysis of all test results on the soils, land-use, and crop information, calculated amounts of waste applied per acre, total amounts of nitrogen applied per acre, and cumulative-metals loading. Annual reports shall be submitted to the Office of Environmental Services, Waste Permits Division, for a minimum of three years for Type II landfarms and 10 years for Type I landfarms after closure and shall contain analyses of all test results of the soils. The post-closure monitoring annual

reporting may be reduced for certain types of landfarms if the permit holder demonstrates to the administrative authority's satisfaction that such a change is warranted.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

- i. copies of the applicable Louisiana solid waste rules and regulations;
- ii. the permit;
- iii. the permit application;
- iv. permit modifications;
- v. certified field notes for construction;
- vi. operator training programs;
- vii. daily log;
- viii. quality-assurance/quality-control records;
- ix. inspections by the permit holder or operator;
- x. operator certificates from the Board of Certification and Training for Solid Waste Disposal System Operators, if applicable;
- xi. monitoring, testing, or analytical data;
- xii. any other applicable or required data deemed necessary by the administrative authority;
- xiii. records on groundwater sampling results;
- xiv. post-closure monitoring reports;
- xv. copies of all documents received from or submitted to the department; and
- xvi. reports specified in Subparagraph C.1.f of this Section.

3. Personnel

a. Facilities shall have the personnel necessary to achieve the operational requirements of the facility.

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

D. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Industrial solid waste, incinerator ash, and nonhazardous petroleum-contaminated media and debris generated by underground storage tanks (UST) corrective action shall be disposed of or processed only in Type I or Type I-A facilities. A comprehensive quality-

assurance/quality-control plan shall be in place before the receipt of these wastes.

c. Grazing by animals whose products are consumed by humans shall be prevented.

d. Only waste that is demonstrated to be biodegradable will be considered for disposal in a landfarm.

e. A comprehensive quality-assurance/quality-control plan shall be provided to ensure that incoming wastes are in conformance with the facility permit.

f. Solid waste with concentrations of polychlorinated biphenyls (PCBs) of 10 mg/kg or more shall not be disposed of in a landfarm.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing or disposal operations. At a minimum, the plan shall address:

- a. the route the waste will follow after receipt;
- b. the sequence in which the waste will be processed or disposed of within a unit;
- c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.);
- d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented;
- e. the sampling protocol, chain of custody, and test methods that will be used in the gas-monitoring systems;
- f. the methods that will be used to ensure that the grade and slope of both the on-site drainage system and the run-on diversion system are maintained and serve their intended functions;
- g. a comprehensive operational management plan for the facility that indicates with calculations that the acreages and methods are adequate for treating the type and volume of wastes anticipated. The plan shall include contingencies for variations.

3. Facility Operational Standards

a. Air-Monitoring Standards

i. Facilities receiving waste with a potential to produce gases shall be subject to the air-monitoring requirements.

ii. The permit holder shall make prompt notification to the Office of Environmental Compliance in accordance with LAC 33:I.3923 when strong odors occur at facility boundaries.

iii. Records of inspections, surveys, and, if applicable, gas-monitoring results shall be maintained at the facility.

iv. Odors shall be controlled by the best means practicable.

v. Facilities shall ensure that the units do not violate any applicable requirements developed under a State Implementation Plan (SIP) approved or promulgated in accordance with Section 110 of the Clean Air Act, as amended.

b. The maximum allowable lifetime-metals loading for soils at facilities shall be restricted to the limits specified in the following table. For organic waste, the application rate shall be controlled to ensure that the residual concentration in soils does not exceed the applicable standard of LAC 33:I.Chapter 13 (RECAP). The requirements may be modified by the department if the unit is constructed with an

underdrain system that captures liquid infiltrating the treatment zone.

Maximum Allowable Metal Loading (lb/acre)*	
Arsenic	37
Cadmium	35
Copper	1300
Lead	270
Mercury	15
Nickel	370
Selenium	89
Zinc	2500
*Other metals not listed may be subject to restrictions based upon the metal content of the waste.	

c. Surface application of liquid waste shall not exceed 2 inches per week.

d. Soil in the zone of incorporation shall be monitored to assess the effectiveness of ongoing treatment, management needs, and soil integrity.

e. Nitrogen concentrations in the waste shall be within the limits deemed acceptable, as determined by plant-nitrogen uptake and soil and waste analyses (which shall indicate the movement of all forms of nitrogen). The potential for nitrogen to enter the groundwater shall be addressed.

f. Waste shall be applied to the land surface or incorporated into the soil within 3 feet of the surface.

g. A comprehensive quality-assurance/quality-control plan shall be provided to ensure that all incoming wastes are in conformance with the facility permit and these regulations.

h. Tests of soil/waste mixtures and analyses of the results, with conclusions, shall be conducted semiannually, or more frequently if deemed necessary by the administrative authority. Test parameters shall consist of soil pH, total nitrogen, phosphorus, salts intrinsic to waste, cumulative metals, organic matter, and others deemed necessary by the administrative authority.

i. The administrative authority may provide additional requirements necessary on a site-specific basis depending on waste type and method of application.

j. Landfarms that receive only domestic sewage sludge and septic tank pumpings shall do so in accordance with LAC 33:IX.Chapter 69.

k. Waste Characterization. Hazardous waste determination, in accordance with LAC 33:V.1103, shall be performed by the generator on all solid waste going to disposal facilities, prior to acceptance of the solid waste and annually for two years following acceptance. Every year thereafter, the generator shall certify that the waste remains unchanged.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facility's operational needs.

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated

annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type I facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department as to whether or not that department has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association;

(b). emergency medical services agency as to whether or not that agency has the ability to meet the response requirements of Section 473 of the Life Safety Code of the National Fire Protection Association; and

(c). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.5.c.i of this Section, the applicant for a Type I facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.5.c.i of this Section.

iii. The requirements of Clauses D.5.c.i and ii shall not apply if the applicant for a Type I facility has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association.

d. Applicants for Type II facilities shall submit certifications from the local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.5.d.i of this Section, the applicant for a Type II facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.5.d.i of this Section.

iii. The provisions of this Subparagraph shall not apply to a Type I facility that is also a Type II facility.

e. Facility operators for a Type II facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

- a. the date of the planned closure;
- b. changes, if any, requested in the approved closure plan; and
- c. the closure schedule and estimated cost.

2. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

3. Closure Requirements. During the closure period the permit holder shall:

- a. continue with all operations (including pH control) necessary to continue normal waste treatment within the treatment zone;
- b. maintain the run-on control system;
- c. maintain the runoff management system;
- d. control wind dispersal of odors and/or waste; and
- e. continue to comply with any prohibitions or conditions concerning growth of food-chain crops.

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services, Waste Permits Division, approves closure. The length of the post-closure care period for landfarms may be:

- a. decreased by the administrative authority if the permit holder demonstrates that the reduced period is sufficient to protect human health and the environment in accordance with LAC 33:I.Chapter 13 and this demonstration is approved by the administrative authority (Any demonstration must provide supporting data, including adequate groundwater monitoring data.); or
- b. increased by the administrative authority if the administrative authority determines that the lengthened period is necessary to protect human health and the environment in accordance with LAC 33:I.Chapter 13.

2. Type I Landfarms. For facilities that receive waste on or after October 9, 1993, the permit holder shall continue to comply with any prohibitions or conditions under this Section for 10 years after closure. For facilities that did not receive waste on or after October 9, 1993, the permit holder shall continue to comply with any prohibitions or conditions under this Section for three years after closure.

3. Type II Landfarms

- a. The permit holder shall continue to comply with any prohibitions or conditions under this Section for three years after closure.
- b. Annual reports shall be submitted to the Office of Environmental Compliance, Surveillance Division, for a period of three years after closure and shall contain results of analysis of all soil/waste.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2525 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2493 (October 2005), LR 33:1058 (June 2007).

Subchapter B. Solid Waste Processors

§717. Standards Governing All Type I-A and II-A Solid Waste Processors

A. Location Characteristics. The information on location characteristics listed in this Subsection is required and shall be provided for all Type I-A and II-A solid waste processing and disposal facilities, as outlined in LAC 33:VII.521.

1. Area master plans shall include location maps and/or engineering drawings. The scale of the maps and engineering drawings shall be legible. Area master plans shall show:

- a. the facility;
- b. the road network;
- c. major drainage systems;
- d. drainage-flow patterns;
- e. the location of the closest population centers;
- f. if the facility processes or disposes of putrescible solid waste, the location of any public-use airport used by turbojet aircraft or piston-type aircraft (if within a 5-mile radius);
- g. the location of the 100-year flood plain, based on the most recent data; and
- h. other pertinent information.

2. Access to facilities by land or water transportation shall be by all-weather roads or waterways that can meet the demands of the facility and are designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents. The surface roadways shall be adequate to withstand the weight of transportation vehicles.

3. A letter shall be acquired from the appropriate agency or agencies regarding any facility receiving waste generated off-site, stating that the facility will not have a significant adverse impact on the traffic flow of area roadways and that the construction, maintenance, or proposed upgrading of such roads is adequate to withstand the weight of the vehicles.

4. Facilities that process or dispose of putrescible solid waste shall not be located within 10,000 feet of the end of any public-use airport runway used by turbojet aircraft or within 5,000 feet of the end of any public-use airport runway used only by piston-type aircraft.

5. A description shall be included of the total existing land use within 3 miles of the facility (by approximate percentage) including, but not limited to:

- a. residential;
- b. health-care facilities and schools;
- c. agriculture;
- d. industrial and manufacturing;
- e. other commercial;
- f. recreational; and
- g. undeveloped.

6. A current aerial photograph, representative of the current land use, of a 1-mile radius surrounding the facility is required. The aerial photograph shall be of sufficient scale to depict all pertinent features.

7. Facilities located in, or within 1,000 feet of, swamps, marshes, wetlands, estuaries, wildlife-hatchery areas, habitat of endangered species, archaeological sites, historic sites, publicly-owned recreation areas, and similar critical environmental areas shall be isolated from such areas by effective barriers that eliminate probable adverse impacts

from facility operations. The following information on environmental characteristics shall be provided:

a. a list of all known historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter, or as otherwise appropriate;

b. documentation from the appropriate state and federal agencies substantiating the historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter; and

c. a description of the measures planned to protect the areas listed from the adverse impact of operation at the facility.

8. Processing facilities may be subject to a comprehensive land-use or zoning plan established by local regulations or ordinances.

9. A statement of the estimated population, the source of the estimation, and the population density within a 3-mile radius of the facility boundary is required of all facilities.

10. A wetlands demonstration, if applicable, is required in accordance with LAC 33:VII.709.A.8.

B. Facility Characteristics. The following facility characteristics are required for Type I-A and Type II-A solid waste processors and disposers, as outlined in LAC 33:VII.521.C.

1. Elements of the process or disposal system employed shall be provided, including, as applicable, property lines, original contours (shown at not greater than 5-foot intervals), buildings, units of the facility, drainage, ditches, and roads.

2. Perimeter barriers and other control measures, such as security and signs, shall be provided as follows.

a. Facilities shall have a perimeter barrier around the facility that prevents unauthorized ingress or egress, except by willful entry.

b. During operating hours, each facility entry point shall be continuously monitored, manned, or locked.

c. During nonoperating hours, each facility entry point shall be locked.

d. Facilities that receive wastes from off-site sources shall post readable signs that list the types of waste that can be received at the facility.

3. Buffer Zones

a. Buffer zones of not less than 200 feet shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the adjoining landowner. A copy of the notarized affidavit waiving the buffer zone requirement shall be entered in the mortgage and conveyance records of the parish for the adjoining landowner's property. Buffer zone requirements may be waived or modified by the administrative authority for areas of processing facilities that have been closed in accordance with these regulations and for existing facilities.

b. No storage, processing, or disposal of solid waste shall occur within the buffer zone.

4. Fire Protection and Medical Care. All facilities shall have access to required fire protection and medical

care, or such services shall be provided internally and in accordance with Paragraph G.5 of this Section.

5. Landscaping. All facilities, other than those that are located within the boundaries of a plant, industry, or business that generates the waste to be processed or disposed of, shall provide landscaping to improve the aesthetics of the facility.

6. Devices or Methods for Receiving and Monitoring Incoming Wastes

a. All processing facilities shall be equipped with a device or method to determine quantity (by wet-weight tonnage); sources (whether the waste was generated in-state or out-of-state and, if it is industrial solid waste, where it was generated); and types of incoming waste (i.e., commercial, residential, infectious). All facilities shall also be equipped with a device or method to control entry of the waste and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous, unauthorized, or unpermitted solid waste).

b. All processing facilities shall be equipped with a central control and recordkeeping system for tabulating the information required in Subparagraph B.6.a of this Section.

7. Discharges from operating units of all facilities shall be controlled and shall conform to applicable state and federal laws. Applications for applicable state and federal discharge permits shall be filed before a standard permit may be issued.

C. Surface Hydrology

1. Facilities located in a flood plain, wetlands, or areas historically subject to overflow from floods shall be filled to bring site elevation above flood levels or otherwise protected by measures approved on a site-specific basis. Perimeter levees or other measures shall provide and maintain adequate protection against a 100-year flood.

2. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not received final cover. The proposed system shall be designed for a 24-hour/25-year storm event.

D. Facility Geology

1. Except as provided in Paragraph D.2 of this Section, facilities shall have natural stable soils of low permeability for the area occupied by the solid waste facility, including vehicle parking and turnaround areas, that shall provide a barrier to prevent any penetration of surface spills into groundwater aquifers underlying the area or to a sand or other water-bearing stratum that would provide a conduit to such aquifers.

2. A design for surfacing natural soils that do not meet the requirement in Paragraph D.1 of this Section shall be prepared and installed under the supervision of a professional engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering and hydrogeology. Written certification by the engineer that the surface satisfies the requirements of Paragraph D.1 of this Section shall be provided to the Office of Environmental Services, Waste Permits Division.

3. Specific requirements for Type III facilities are found in LAC 33:VII.Chapter 8.

E. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the

supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Levee Construction

a. Levees or other protective measures shall be constructed adjacent to the facility in order to protect the facility against a 100-year flood.

b. The perimeter levees of all facilities shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity.

F. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in both dry- and wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the processor annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual-reporting form.

e. A facility that receives industrial solid waste shall utilize, in its annual report, the appropriate industrial waste code number.

f. The annual report for incinerator waste-handling facilities, shredders, balers, compactors, and transfer stations shall identify the quantity (expressed in wet-weight tons per year), and types of solid waste transported for disposal. The report shall also identify the permitted facility used for disposal of the waste.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

- i. copies of the applicable Louisiana solid waste rules and regulations;
- ii. the permit;
- iii. the permit application;

iv. permit modifications; and

v. operator certificates from the Board of Certification and Training for Solid Waste Disposal System Operators, if applicable.

3. Personnel

a. Facilities shall have the personnel necessary to achieve the operational requirements of the facility.

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

G. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Open burning shall not be practiced unless authorization is first obtained from the administrative authority and any other applicable federal, state, and local authorities.

c. Salvaging shall be prevented unless approved by the administrative authority.

d. Scavenging shall be prevented.

e. Industrial solid waste, incinerator ash, and nonhazardous petroleum-contaminated media and debris generated by underground storage tanks (UST) corrective action shall be processed only in Type I-A facilities. A comprehensive quality-assurance/quality-control plan shall be in place before the receipt of these wastes.

f. The receipt of mercury and/or cadmium-bearing batteries by Type I-A and II-A incinerator waste-handling facilities is strictly prohibited.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed or disposed of within a unit;

c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.); and

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented.

3. Facility Operational Standards

a. Waste Characterization. Hazardous waste determination, in accordance with LAC 33:V.1103, shall be performed by the generator on all solid waste received for processing, prior to acceptance of the solid waste and annually for two years following acceptance. Every year thereafter, the generator shall certify that the waste remains unchanged.

b. All containers shall provide containment of the wastes and thereby control litter, odor, and other pollution of adjoining areas.

c. Provisions shall be made for at least daily cleanup of the facility, including equipment and waste-handling areas.

d. No solid waste shall be stored long enough to cause a nuisance, health hazard, or detriment to the environment.

e. Treatment facilities for washdown and other contaminated water shall be provided.

f. Facilities that employ incineration shall develop an ash-management plan that includes, at a minimum, testing, handling, transportation, and disposal of ash at a permitted facility.

g. Facilities shall have a plan for handling contaminated water.

h. Specific Operational Standards for Incinerator Waste-Handling Facilities

i. Handling. Ash shall be properly wetted and contained so as to ensure that there are no dust emissions during loading, transporting, or unloading.

ii. Testing. Testing procedures, schedules, and methods shall be submitted to the Office of Environmental Services, Waste Permits Division, for review and approval before disposal operations begin. Disposal of ash shall be only in a permitted Type I facility. Processing of ash shall be only in a permitted Type I-A facility.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph G.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type I-A facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department as to whether or not that department has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association;

(b). emergency medical services agency as to whether or not that agency has the ability to meet the response requirements of Section 473 of the Life Safety Code of the National Fire Protection Association; and

(c). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause G.5.c.i of this Section, the applicant for a Type I-A facility shall identify in the permit application the closest fire

department, emergency medical services agency, and hospital that can provide the services listed in Clause G.5.c.i of this Section.

iii. The requirements of Clauses G.5.c.i and ii of this Section shall not apply if the applicant for a Type I-A facility has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association.

d. Applicants for Type II-A facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clauses G.5.d.i of this Section, the applicant for a Type II-A facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause G.5.d.i of this Section.

iii. The provisions of this Subparagraph shall not apply to a Type I-A facility that is also a Type II-A.

e. Facility operators for a Type II-A facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

H. Implementation Plans. The implementation plans for all facilities shall include the following:

1. a construction schedule for existing facilities, which shall include beginning and ending time frames and time frames for the installation of all major features; and

2. details on phased implementation, if any proposed facility is to be constructed in phases.

I. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

a. the date of the planned closure;

b. changes, if any, requested in the approved closure plan; and

c. the closure schedule and estimated cost.

2. Closure Requirements

a. Insect and rodent inspection is required to be documented before closure, and extermination measures shall be provided if required as a result of the final inspection.

b. All remaining waste shall be removed to a permitted facility for disposal.

c. The permit holder shall verify that the underlying soils have not been contaminated due to the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.713.E.3-6 shall be provided to the administrative authority. The Office of Environmental Compliance, Surveillance Division, shall conduct a closure inspection to

verify that the facility was closed in accordance with the approved closure plan.

3. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2526, 2610 (November 2000), repromulgated LR 27:704 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2494 (October 2005), LR 33:1061 (June 2007).

Subchapter C. Minor Processing and Disposal Facilities

§719. Standards Governing All Type III Processing and Disposal Facilities

[Formerly some of the provisions in Subsections A, B, and E existed in §521.]

A. Location Characteristics. The information on location characteristics listed in this Subsection is required and shall be provided for all Type III solid waste processing and disposal facilities, as outlined in LAC 33:VII.521.B.

1. Area master plans shall include location maps and/or engineering drawings. The scale of the maps and engineering drawings shall be legible. Area master plans shall show:

- a. the facility;
- b. the road network;
- c. major drainage systems;
- d. drainage-flow patterns;
- e. the location of the closest population centers;
- f. if the facility processes or disposes of putrescible solid waste, the location of any public-use airport used by turbojet aircraft or piston-type aircraft (if within a 5-mile radius);
- g. the location of the 100-year flood plain based on the most recent data; and
- h. other pertinent information.

2. Access to facilities by land or water transportation shall be by all-weather roads or waterways that can meet the demands of the facility and are designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents. The surface roadways shall be adequate to withstand the weight of transportation vehicles.

3. Facilities that compost putrescible solid waste shall not be located within 10,000 feet of the end of any public-use airport runway used by turbojet aircraft or within 5,000 feet of the end of any public-use airport runway used by only piston-type aircraft.

4. Facilities located in, or within 1,000 feet of, swamps, marshes, wetlands, estuaries, wildlife-hatchery areas, habitat of endangered species, archaeological sites, historic sites, publicly-owned recreation areas, and similar critical environmental areas shall be isolated from such areas by effective barriers that eliminate probable adverse impacts

from facility operations. The following information on environmental characteristics shall be provided:

a. a list of all known historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter, or as otherwise appropriate;

b. documentation from the appropriate state and federal agencies substantiating the historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter; and

c. a description of the measures planned to protect the areas listed from the adverse impact of operation at the facility.

5. A letter shall be acquired from the appropriate agency or agencies regarding any facility receiving waste generated off-site, stating that the facility will not have a significant adverse impact on the traffic flow of area roadways and that the construction, maintenance, or proposed upgrading of such roads is adequate to withstand the weight of the vehicles.

6. A description shall be included of the total existing land use within 3 miles of the facility (by approximate percentage) including, but not limited to:

- a. residential;
- b. health-care facilities and schools;
- c. agriculture;
- d. industrial and manufacturing;
- e. other commercial;
- f. recreational; and
- g. undeveloped.

7. A current aerial photograph, representative of the current land use, of a 1-mile radius surrounding the facility is required. The aerial photograph shall be of sufficient scale to depict all pertinent features.

8. Processing or disposal facilities may be subject to a comprehensive land-use or zoning plan established by local regulations or ordinances.

9. A statement of the estimated population, the source of the estimation, and the population density within a 3-mile radius of the facility boundary is required of all facilities.

10. A wetlands demonstration, if applicable is required, in accordance with LAC 33:VII.709.A.8.

B. Facility Characteristics. The following facility characteristics are required for all Type III solid waste facilities, as outlined in LAC 33:VII.521.C.

1. Elements of the process or disposal system employed shall be provided, including, as applicable, property lines, original contours (shown at not greater than 5-foot intervals), buildings, units of the facility, drainage, ditches, and roads.

2. Perimeter barriers and other control measures, such as security and signs, shall be provided as follows.

a. Facilities shall have a perimeter barrier around the facility that prevents unauthorized ingress or egress, except by willful entry.

b. During operating hours, each facility entry point shall be continuously monitored, manned, or locked.

c. During nonoperating hours, each facility entry point shall be locked.

d. Facilities that receive wastes from off-site sources shall post readable signs that list the types of wastes that can be received at the facility.

3. Buffer Zones

a. Buffer zones of not less than 50 feet shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the adjoining landowner. A copy of the notarized affidavit waiving the buffer zone requirement shall be entered in the mortgage and conveyance records of the parish for the adjoining landowner's property. Buffer zone requirements may be waived or modified by the administrative authority for areas of woodwaste/construction/demolition-debris landfills that have been closed in accordance with these regulations and for existing facilities. Notwithstanding this Paragraph, Type III air curtain destructors and composting facilities that receive putrescible, residential, or commercial waste shall meet the buffer zone requirements in LAC 33:VII.717.B.3. In addition, air curtain destructors shall maintain at least a 1,000-foot buffer from any dwelling other than a dwelling or structure located on the property on which the burning is conducted (unless the appropriate notarized affidavit waivers are obtained).

b. No storage, processing, or disposal of solid waste shall occur within the buffer zone.

4. Fire Protection and Medical Care. All facilities shall have access to required fire protection and medical care, or such services shall be provided internally.

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph B.4 of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

5. Landscaping. All facilities, other than those that are located within the boundaries of a plant, industry, or business that generates the waste to be processed or disposed of, shall provide landscaping to improve the aesthetics of the facility.

6. Devices or Methods for Receiving and Monitoring Incoming Wastes

a. All processing or disposal facilities shall be equipped with a device or method to determine quantity (by wet-weight tonnage), sources (whether the waste was generated in-state or out-of-state), and types of incoming waste. All facilities shall also be equipped with a device or method to control entry of the waste and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous, unauthorized, or unpermitted solid waste).

b. All processing or disposal facilities shall be equipped with a central control and recordkeeping system for tabulating the information required in Subparagraph B.6.a of this Section.

7. Discharges from operating units of all facilities shall be controlled and shall conform to applicable state and federal laws. Applications for applicable state and federal discharge permits shall be filed before a standard permit may be issued.

C. Surface Hydrology

1. Facilities located in a flood plain, wetlands, or areas historically subject to overflow from floods shall be filled to bring site elevation above flood levels or otherwise protected by measures approved on a site-specific basis. Perimeter levees or other measures shall provide and maintain adequate protection against a 100-year flood.

2. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility.

3. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not received final cover. The proposed system shall be designed for a 24-hour/25-year storm event.

4. Specific Surface Hydrology Standard for Type III Composting Facilities. The topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility.

D. Facility Geology

1. Except as provided in Paragraph D.2 of this Section, facilities shall have natural stable soils of low permeability for the area occupied by the solid waste facility, including vehicle parking and turnaround areas, that shall provide a barrier to prevent any penetration of surface spills into groundwater aquifers underlying the area or to a sand or other water-bearing stratum that would provide a conduit to such aquifers.

2. A design for surfacing natural soils that do not meet the requirement in Paragraph D.1 of this Section shall be prepared and installed under the supervision of a professional engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering and hydrogeology. Written certification by the engineer that the surface satisfies the requirements of Paragraph D.1 of this Section shall be provided to the Office of Environmental Services, Waste Permits Division.

3. Specific requirements for Type III facilities are found in LAC 33:VII.Chapter 8.

E. Implementation Plans. The implementation plans for all facilities shall include the following:

1. a construction schedule for existing facilities, which shall include beginning and ending time frames and time frames for the installation of all major features; and

2. details on phased implementation, if any proposed facility is to be constructed in phases.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2495 (October 2005), LR 33:1065 (June 2007).

§721. Standards Governing Construction and Demolition Debris and Woodwaste Landfills (Type III)

A. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Interim Cover Requirements

a. Cover material shall:

i. minimize vector-breeding areas and animal attraction by controlling:

(a). fly, mosquito, and other insect emergence and entrance;

(b). rodent burrowing for food and harborage; and

(c). bird and animal attraction;

ii. control leachate generation by:

(a). minimizing external-moisture infiltration;

(b). minimizing erosion; and

(c). utilizing materials with minimum free-liquid content;

iii. reduce fire-hazard potential;

iv. minimize blowing paper and litter;

v. reduce noxious odors by minimizing outward movement of methane and other gases;

vi. provide aesthetic appearance to the landfill operation; and

vii. allow accessibility regardless of weather.

b. Wastes shall be deposited in the smallest practical area each day and compacted. The wastes shall be covered with silty clays applied a minimum of 12 inches thick, at least every 30 days and documented in the facility's records.

3. Levee Construction

a. Levees or other protective measures approved by the administrative authority shall be provided in order to protect the facility against a 100-year flood.

b. If levees are required to protect the facility against a 100-year flood, such perimeter levees shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity and shall provide adequate protection against a 100-year flood.

B. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in both dry- and wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing or disposal during the annual-reporting period shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the processor and/or disposer annual report shall be from July 1 through June 30,

commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual reporting form.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

i. copies of the applicable Louisiana solid waste rules and regulations;

ii. the permit;

iii. the permit application; and

iv. permit modifications.

3. Personnel

a. All facilities shall have the personnel necessary to achieve the operational requirements of the facility.

b. Type III facilities receiving construction and demolition debris and woodwaste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators. The requirements of this Subparagraph are not applicable to facilities meeting the criteria of LAC 33:VII.305.A.4.

C. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Open burning shall not be practiced unless authorization is first obtained from the administrative authority and any other applicable federal, state, and local authorities.

c. Salvaging shall be prevented unless approved by the administrative authority.

d. Scavenging shall be prevented.

e. The following types of waste may be disposed of:

i. *construction/demolition debris*, as defined in LAC 33:VII.115;

ii. *woodwaste*, as defined in LAC 33:VII.115; and

iii. *yard trash*, as defined in LAC 33:VII.115.

f. The disposal of liquid waste, infectious waste, residential waste, industrial waste, commercial waste,

RACM, and putrescible waste shall be strictly prohibited and prevented.

g. No solid waste shall be deposited in standing water.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing or disposal operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed or disposed of within a unit;

c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.);

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented;

e. the side slope, which shall be no steeper than 3(H):1(V);

f. the run-on/runoff-diversion system, which shall be maintained to ensure proper operation of the drainage system; and

g. a quality-assurance/quality-control plan for the management of non-RACM waste, which shall include, at a minimum, detailed procedures involved in transportation, disposal, and monitoring of the waste.

3. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

4. Segregation of Wastes. Waste determined to be unacceptable at a woodwaste and construction/demolition-debris landfill shall be removed from the facility at least every seven days. Storage of this waste shall be in a closed container that prevents vector and odor problems. The facility shall maintain a log of dates and volumes of waste removed from the facility.

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph C.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type III facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a) fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b) hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of

Clause C.5.c.i of this Section, the applicant for a Type III facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause C.5.c.i of this Section.

d. Facility operators for a Type III facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

D. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

a. the date of the planned closure;

b. changes, if any, requested in the approved closure plan; and

c. the closure schedule and estimated cost.

2. Preclosure Requirements

a. Final cover shall be applied within 30 days after final grades are reached in each unit of a facility. This deadline may be extended by the administrative authority if necessary due to inclement weather or other circumstances.

b. Standing water shall be solidified or removed.

c. The runoff-diversion system shall be maintained until the final cover is installed.

d. The runoff-diversion system shall be maintained and modified to prevent overflow of the landfill to adjoining areas.

e. Insect and rodent inspection is required to be documented before installation of final cover, and extermination measures shall be provided, if required as a result of the facility inspection.

f. Final compaction and grading shall be completed before capping.

3. Closure Requirements

a. Final Cover

i. Final cover shall consist of a minimum of 24 inches of silty clays and 6 inches of topsoil cover for supporting vegetative growth; however, other covers that provide a more practical answer and satisfy the purposes of minimizing fire hazards, odors, vector food and harborage, and infiltration of precipitation, as well as discouraging scavenging and limiting erosion, may be submitted to the Office of Environmental Services, Waste Permits Division, for approval.

ii. The side slope shall be no steeper than 3(H):1(V) and shall have a minimum of a four percent slope on the top of the final cap, unless it can be demonstrated that a lesser slope is sufficient for proper drainage following the post-settlement.

iii. The Office of Environmental Compliance, Surveillance Division, shall be notified prior to planting a ground cover, and the permit holder shall notify the Office of Environmental Compliance, Surveillance Division, once the ground cover is established.

iv. Quality-assurance/quality-control procedures shall be developed and implemented to ensure that the final cover is designed, constructed, and installed properly. An engineering certification verifying that the facility meets the final cover requirements shall be prepared under the

supervision of a professional engineer licensed in the state of Louisiana. This certification shall be submitted to the Office of Environmental Assessment, Environmental Technology Division, for approval.

v. A combination of clay and synthetic material approved by the administrative authority may also be used as final cover.

b. After a closure inspection and approval, the permit holder shall plant a ground cover to prevent erosion and to return the facility location to a more natural appearance.

c. The permit holder shall update the parish mortgage and conveyance records by recording the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with knowledge of the contents of the facility. An example of the form to be used for this purpose is provided in LAC 33:VII.3011.Appendix F. The facility shall provide the Office of Environmental Services, Waste Permits Division, with a true copy of the document filed and certified by the parish clerk of court.

4. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority may release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

E. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services, Waste Permits Division, approves closure. The time frame of post-closure care may be lengthened, if necessary, to protect human health or the environment in accordance with LAC 33:I.Chapter 13.

2. The integrity of the grade and cap shall be maintained for no less than three years after the date of the administrative authority's approval of the closure of the facility. The Office of Environmental Assessment, Environmental Technology Division, shall be notified of any problems and corrective action measures associated with the integrity and effectiveness of the final cover.

3. Annual reports concerning the integrity of the cap shall be submitted to the Office of Environmental Compliance, Surveillance Division, for a period of three years after closure.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), LR 31:1577 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2495 (October 2005), LR 33:1067 (June 2007).

§723. Standards Governing Composting Facilities

A. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the

supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Levee Construction

a. Levees or other protective measures shall be provided in order to protect the facility against a 100-year flood.

b. The perimeter levees of all facilities shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity.

3. Leachate Management

a. Leachate produced in the composting process shall be collected and treated or disposed of at a permitted facility.

b. Leachate may also be reused in the composting process as a source of moisture.

B. Surface Hydrology. The topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility.

C. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in both dry- and wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the processor annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual reporting form.

e. The annual reports for composting facilities shall identify the quantity (expressed in both dry- and wet-weight tons per year) and types of solid waste distributed for reuse and/or recycling and the ultimate use of the product or the quantity (expressed in both dry- and wet-weight tons per year) of solid waste disposed of. The report shall also identify the permitted facility used for the disposal of the waste.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing at the facility. The records shall include the date of receipt of shipments of

waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

- i. copies of the applicable Louisiana solid waste rules and regulations;
- ii. the permit;
- iii. the permit application; and
- iv. permit modifications.

3. Personnel

a. All facilities shall have the personnel necessary to achieve the operational requirements of the facility.

b. Type III facilities receiving solid waste for composting shall have the number and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

D. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling problems may be excluded by the administrative authority.

b. The following types of wastes may be processed:

- i. *yard trash* and *woodwaste*, as defined in LAC 33:VII.115;
- ii. *manure*, as defined in LAC 33:VII.115;
- iii. *residential* or *commercial solid waste*, as defined in LAC 33:VII.115;
- iv. other materials deemed acceptable by the administrative authority.

c. The processing of infectious waste and asbestos waste shall be strictly prohibited and prevented.

d. No solid waste shall be deposited in standing water.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing operations. At a minimum, the plan shall address:

- a. the route the waste will follow after receipt;
- b. the sequence in which the waste will be processed within a unit;
- c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.); and
- d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented.

3. Facility Operational Standards

a. The operation of composting facilities shall be by methods that result in the aerobic, biochemical decomposition of the organic material received.

b. The facility shall be designed and operated to control vectors, odors, dust, and litter.

c. The construction and turning frequency (if turning is necessary) of a composting facility shall be sufficient to maintain aerobic conditions and to produce a compost product in a time frame that is consistent with the

level of technology employed and acceptable to the administrative authority.

d. In-vessel composting shall be conducted in accordance with the manufacturer's specifications and these regulations.

e. The following special requirements apply to facilities handling residential or commercial waste.

i. If the compost is to be used exclusively for application to non-food-chain cropland, the criteria for a process to significantly reduce pathogens (LAC 33:VII.3007.Appendix D.1) shall be met. Otherwise, the facility shall meet the criteria for the processes to further reduce pathogens and for vector attraction reduction (LAC 33:VII.3007.Appendix D.2 and 3009.Appendix E).

ii. The facility shall include the following components:

(a). a receiving area, mixing area, curing area, compost storage area, drying and screening areas, and truck wash area located on surfaces capable of preventing groundwater contamination and resistant to rutting caused by vehicular traffic (Periodic inspections of the surface shall be made to ensure that the underlying soils and the surrounding land surface are not being contaminated.);

(b). a runoff collection system;

(c). a leachate collection system; and

(d). on-site/off-site treatment systems.

f. The following parameters are to be monitored and recorded during the operation in the time frame specified below (The samples taken for the parameters listed below shall be representative of the compost unit.):

i. temperature, daily;

ii. process odors, daily;

iii. blower operation, daily; and

iv. other parameters as deemed appropriate by the administrative authority.

g. Compost shall be classified based on the type of waste processed, compost maturity, particle size, and organic matter. The following characteristics shall be used.

i. Compost Maturity

(a). *Fresh Organic Matter*—raw material before undergoing decomposition (or at beginning of process).

(b). *Fresh Compost*—organic matter that has been through the thermophilic stage and has undergone partial decomposition.

(c). *Semimature Compost*—compost material that is at the mesophilic stage.

(d). *Mature Compost*—a highly stabilized product that results from exposing compost to a prolonged period of humidification and mineralization, beyond the stage of maturity. *Mature compost* shall have been cured for at least 60 days after the mesophilic stage is complete. Minimum starting moisture content for curing semimature compost shall be above 45 percent (by weight) and shall be raised to this value if necessary.

(e). A plot of time versus temperature (to indicate that the temperature of the compost has stabilized over a period of time) or other acceptable methods may be used to determine the level of maturity of compost as defined in Subclauses D.3.g.i.(b)-(d) of this Section.

ii. Particle Size. Particle size shall be determined by using the screen size, listed in Subclauses D.3.g.ii.(a)-(c) of this Section, that the compost passed through. Organic

matter content shall be determined by measuring the volatile solids content using the Environmental Protection Agency's (EPA's) approved methods.

(a). *Fine*: < 12 mm and organic matter > 25 percent.

(b). *Medium*: < 15 mm and organic matter > 30 percent.

(c). *Coarse*: < 30 mm and organic matter > 35 percent.

iii. **Moisture Content.** In the finished compost, the moisture content shall not exceed 55 percent (by weight). The moisture content shall be determined by using EPA's approved methods.

iv. **Concentration Levels.** The concentration level of finished compost shall be as shown in the following table.

Metal Concentration Levels of Finished Compost (shown in mg/kg in dry weight)		
Parameter	Category I	Category II
Arsenic	<41	41-75
Cadmium	<39	39-85
Copper	<1500	1500-4300
Lead	<300	300-840
Mercury	<17	17-57
Nickel	<420	420
Selenium	<100	100
Zinc	<2800	2800-7500

h. **Finished Compost**

i. The finished compost shall be sufficiently stable that it can be stored or applied to land without causing a health hazard or a detriment or nuisance to the environment as determined by the administrative authority.

ii. All distributed compost shall be accompanied with a label or leaflet that indicates, at a minimum, the type of waste from which the compost was derived, any restriction on the use of the product, and recommended application rates.

iii. Compost derived from residential or commercial waste shall meet the criteria of the processes to further reduce pathogens (LAC 33:VII.3007.Appendix D.2) or the process to significantly reduce pathogens (LAC 33:VII.3007.Appendix D.1) as provided in Clause D.3.e.i of this Section. Such compost shall not be offered for sale to or otherwise distributed to the general public unless it meets the criteria of the processes to further reduce pathogens and for vector attraction reduction (LAC 33:VII.3007.Appendix D.2 and 3009.Appendix E).

iv. Any compost made from solid waste that cannot be used pursuant to these regulations shall be reprocessed or disposed of in an approved solid waste facility.

v. Waste received at a composting facility shall be used as compost, sold as compost, or disposed of at a permitted disposal facility within 36 months after receipt.

vi. The sampling and testing methods shall be EPA's approved methods.

vii. Compost produced outside of the state of Louisiana and used or sold for use within the state shall comply with the requirements of these regulations.

viii. **Classes of Finished Compost**

(a). *Class M1*—compost that is made only from manure or manure with yard trash and/or woodwaste, which is mature or semimature, is fine or medium, and meets the

metals concentrations of Category 1 of Clause D.3.g.iv of this Section. This compost shall have unrestricted distribution except as provided in Clause D.3.e.i of this Section.

(b). *Class M2*—compost that is made only from manure or manure with yard trash and/or woodwaste, which is mature or semimature, is fine or medium, and meets the metals concentrations of Category 2 (but not of Category 1) of Clause D.3.g.iv of this Section. This compost shall be restricted to use with non-food-chain crops.

(c). *Class S1*—compost that is made from solid waste other than only manure or manure with yard trash and/or woodwaste, which is mature, is fine, and meets the metals concentrations in Category 1 of Clause D.3.g.iv of this Section. This compost shall have unrestricted distribution except as provided in Clause D.3.e.i of this Section.

(d). *Class S2*—compost that is made from solid waste other than only manure or manure with yard trash and/or woodwaste, which is mature or semimature, is fine or medium, and meets the metals concentrations in Category 1 or Category 2 of Clause D.3.g.iv of this Section, but does not meet the requirements of Class S1 compost. This compost shall be restricted to use with non-food-chain crops and shall not be used in areas where public contact is likely, such as parks or recreation areas.

(e). *Class YW*—compost that is made only from yard trash and/or woodwaste, which is mature or semimature, and is fine or medium. This compost shall have unrestricted distribution except as provided in Clause D.3.e.i of this Section.

(f). All classes of compost shall be used in accordance with the maximum allowable metal loading limits and annual allowable metal loading limits provided in the following tables and are subject to the restrictions provided in Clause D.3.e.i of this Section. The following metal loading limits shall apply provided specific plant nitrogen uptake and other limitations are met.

Maximum Allowable Metal Loading Limits (lbs/acre)	
Arsenic	37
Cadmium	35
Copper	1300
Lead	270
Mercury	15
Nickel	370
Selenium	89
Zinc	2500

Annual Allowable Metal Loading Limits (lbs/acre)	
Arsenic	1.85
Cadmium	1.75
Copper	65
Lead	135
Mercury	0.75
Nickel	18.5
Selenium	4.45
Zinc	125

ix. **Testing of Finished Compost.** Composite samples of batches produced at compost facilities shall be analyzed, in accordance with SW-846, at intervals of every

three months (see *liquid waste*, as defined in LAC 33:VII.115) for the following parameters:

- (a). moisture;
- (b). total nitrogen;
- (c). total phosphorus;
- (d). total potassium;
- (e). pH;
- (f). cadmium;
- (g). copper;
- (h). lead;
- (i). nickel;
- (j). zinc;
- (k). arsenic;
- (l). mercury;
- (m). selenium; and

(n). appropriate parameters for pathogens and vector attraction reduction analysis.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

5. Segregation of Waste

a. Composting facilities involving residential and commercial solid waste shall provide a waste-segregation plan and a recyclables separation program that shall be instituted prior to composting operations.

b. Wastes not intended for composting shall be removed from the facility to a permitted facility at least every seven days. Storage of wastes not intended for composting shall be in a closed container that prevents vector and odor problems. The facility shall maintain a log of dates and volumes of waste removed from the facility due to its inability to be composted.

c. Recyclable waste removed from the waste stream shall be stored in a manner that prevents vector and odor problems and shall be removed from the facility at least every 90 days. The facility shall maintain a log of dates and volumes of recycled waste removed from the facility.

6. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated and submitted annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.6.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type III facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.6.c.i of this Section, the applicant for a Type III facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.6.c.i of this Section.

d. Facility operators for a Type III facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

- a. the date of the planned closure;
- b. changes, if any, requested in the approved closure plan; and
- c. the closure schedule and estimated cost.

2. Closure Requirements

a. Insect and rodent inspection shall be performed and documented before closure, and extermination measures shall be provided if required as a result of the final inspection.

b. All remaining waste shall be removed to a permitted facility for disposal.

c. The permit holder shall verify that the underlying soils have not been contaminated in the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.713.E.4 and 6 shall be provided to the Office of Environmental Services, Waste Permits Division. The Office of Environmental Compliance, Surveillance Division, shall conduct a closure inspection to verify that the facility was closed in accordance with the approved closure plan.

3. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

4. Financial assurance shall be adequate to cover removal of the maximum inventory at any given time, including (if part of closure) the cost of dismantling and removal of materials and buildings, etc.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal

§725. Standards Governing Separation and Woodwaste Processing Facilities (Type III)

A. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Levee Construction

a. The perimeter levees of all facilities shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity.

b. Levees or other protective measures shall be provided in order to protect the facility against a 100-year flood.

B. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in both dry- and wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the processor annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual reporting form.

e. The annual report for separation facilities shall identify the quantity (expressed in both dry- and wet-weight tons per year) and types of solid waste transported for disposal. The report shall also identify the permitted facility used for disposal of the waste.

f. The annual reports for separation facilities shall identify the quantity (expressed in both dry- and wet-weight tons per year) and types of solid waste distributed for reuse and/or recycling and the ultimate use of the product.

g. The annual report for portable air curtain destructors shall identify the site and quantity of solid waste processed at each individual site.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the Office of Environmental Services, Waste Permits Division.

c. Records kept on site for all facilities shall include, but not be limited to:

i. copies of the applicable Louisiana solid waste rules and regulations;

ii. the permit;

iii. the permit application; and

iv. permit modifications.

3. Personnel. All facilities shall have the personnel necessary to achieve the operational requirements of the facility.

4. Type III facilities receiving solid waste for processing shall have the number and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

C. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Open burning shall not be practiced unless authorization is first obtained from the administrative authority and any other applicable federal, state, and local authorities.

c. Salvaging shall be prevented unless approved by the administrative authority.

d. Scavenging shall be prevented.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed or disposed of within a unit;

c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.); and

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented.

3. Facility Operational Standards

a. All containers shall provide containment of the wastes and thereby control litter, odor, and other pollution of adjoining areas.

b. Provisions shall be made for at least daily cleanup of the facility, including equipment and waste-handling areas.

c. No solid waste shall be stored long enough to cause a nuisance, health hazard, or detriment to the environment.

d. Treatment facilities for washdown and other contaminated water shall be provided.

e. Facilities shall have a plan for handling contaminated water.

f. Applications for air curtain destructors shall provide the specifications of the type of air curtain unit proposed and additionally adhere to the following requirements.

i. If the air curtain destructor is a trench burner, the approximate dimensions of the trench (pit) shall be specified.

ii. Ash shall be removed on a regular basis so as to not cause a hazard or nuisance.

iii. Water shall be applied to the ash before removal.

iv. Excessive smoldering of woodwaste shall be prevented during non-operating hours.

v. Only untreated *woodwaste* and *yard trash*, as defined in LAC 33:VII.115, may be accepted. No burning of treated woodwaste or other solid waste is permitted.

vi. All emissions and burning operations are subject to the Louisiana air quality regulations (LAC 33:Part III). These regulations and any other permit requirements shall be followed.

vii. Only clean fuels (diesel fuel No. 2, etc.) shall be used to light refuse.

viii. Burning shall be conducted between the hours of 8 a.m. and 5 p.m.

ix. Incoming woodwaste shall be inspected at the gate before unloading. If any waste other than woodwaste is detected, the entire load shall be rejected. All rejected loads shall be recorded in the daily log.

x. Storage of woodwaste and yard trash shall be in a designated area.

xi. The volume of woodwaste and yard trash stored on-site shall not exceed 10 days of the processing capacity of the air curtain destructor unless otherwise approved by the administrative authority.

xii. No waste or combustible material shall be stored within 50 feet of the air curtain destructor.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph C.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type III facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a) fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b) hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause C.5.c.i of this Section, the applicant for a Type III facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause C.5.c.i of this Section.

d. Facility operators for a Type III facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

D. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

- a. the date of the planned closure;
- b. changes, if any, requested in the approved closure plan; and
- c. the closure schedule and estimated cost.

2. Closure Requirements

a. Insect and rodent inspection shall be performed and documented before closure, and extermination measures shall be provided if required as a result of the final inspection.

b. All remaining waste shall be removed to a permitted facility for disposal or properly disposed of on-site as provided for in LAC 33:VII.305.A.8. If waste is removed from the facility, documentation shall be provided that the material was properly disposed of in a permitted facility.

c. The permit holder shall verify that the underlying soils have not been contaminated from the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.713.E.4 and 6 shall be provided to the Office of Environmental Services, Waste Permits Division. The Office of Environmental Compliance, Surveillance Division, shall conduct a closure inspection to verify that the facility was closed in accordance with the approved closure plan.

3. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), LR 22:280 (April 1996), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2026 (September 2004), amended by the Office of the

Secretary, Legal Affairs Division, LR 31:2496 (October 2005), LR 33:1073 (June 2007).

NOTE: Subchapter E has moved to Chapter 13.

NOTE: §727 has moved to §§1301, 1303, 1305, and 1399.

Chapter 8. Standards Governing General Facility Geology, Subsurface Characterization, and Facility Groundwater Monitoring for Type I, I-A, II, II-A, and III Facilities [Formerly §709.C-E]

§801. General Facility Geology

A. The following standards regarding facility geology are applicable to all Type I, Type I-A, Type II, Type II-A, and Type III facilities.

1. The subsurface soils and groundwater conditions at facilities shall be characterized by a geologist, or a professional engineer licensed in the state of Louisiana with expertise in geotechnical engineering and hydrogeology. Both field boring logs and laboratory results shall be included as part of the permit application.

2. Except as provided in Paragraph A.3 of this Section, facilities shall have natural soils of low permeability for the area occupied by the solid waste facility, including vehicle parking and turnaround areas, that shall provide a barrier to prevent any penetration of surface spills into groundwater aquifers underlying the area or to an underlying sand or other permeable stratum that would provide a conduit to such aquifers.

3. A design for surfacing natural soils that do not meet the requirement in Paragraph A.2 of this Section shall be prepared and installed under the supervision of a professional engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering and hydrogeology. Written certification by the engineer that the surface satisfies the requirements of Paragraph A.2 of this Section shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1075 (June 2007).

§803. Subsurface Characterization

A. Boring Requirements

1. Boring Requirements Applicable to Type I, II, and III Facilities

a. Borings shall be installed and plugged and abandoned in accordance with the standards in this Chapter, as well as the guidelines established in the latest versions of the LDEQ's and Louisiana Department of Transportation and Development's (LDOTD's) *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook* and the LDOTD's Water Well Rules, Regulations, and Standards in LAC 56. The administrative authority may approve other forms of geological investigation for Type III facilities, such as hand-augered borings, test pits, excavations, etc., provided that subsurface conditions are characterized by an individual who meets the requirements in LAC 33:VII.801.A, and any holes, test pits, etc., are properly plugged and abandoned.

b. Boring logs shall be submitted for each borehole, including boreholes for monitoring wells and piezometers, and shall include information for boring logs established in the latest versions of the LDEQ's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater*

Monitoring Systems Handbook and the LDOTD's Water Well Rules, Regulations, and Standards in LAC 56, including the ground surface elevation with respect to NGVD, lithology and the intervals that were cored continuously, and the depth of first encountered groundwater.

c. If the ground surface elevation has changed in any permitted area due to construction or other activities at the facility, than the affected borings shall be re-surveyed to reflect the current ground surface elevation.

d. A plan-view map shall be provided that shows existing topographic contours and locations of all borings, monitoring wells, and piezometers with respect to the facility.

e. A detailed plan-view drawing shall be provided that shows the proposed elevations of the base of units prior to installation of the liner system and boring locations.

2. Requirements Applicable to Type I and Type II Facilities

a. Geotechnical borehole spacing shall be no greater than 450 feet (minimum of four borings required) except for Type II landfarms that require a sufficient spacing between borings to adequately characterize the subsurface soils and groundwater conditions for the facility.

b. Existing permitted facilities that are planning a lateral and/or vertical expansion or changing the permitted lowest point of excavation within the permitted footprint may submit a work plan to the Office of Environmental Assessment, Environmental Technology Division, to demonstrate that an alternative to the geotechnical borehole minimum spacing requirements set forth in Subparagraph A.2.a of this Section will achieve adequate characterization of the subsurface soils and groundwater conditions for the facility. The proposed alternative method shall include a demonstration that the subsurface soils and groundwater conditions have been adequately characterized or shall propose additional actions necessary to achieve adequate characterization. If the department concurs that adequate characterization has been performed, the spacing requirements of Subparagraph A.2.a of this Section may be waived.

c. The elevation (NGVD) of the lowest point of excavation shall be provided.

d. All boreholes shall extend to a depth of at least 30 feet below the elevation (NGVD) of the lowest point of excavation (or the lowest point of the zone of incorporation, for landfarms). At least 10 percent of the borings (minimum of three borings) shall extend to 100 feet below grade level to characterize the shallow geology.

e. All borings shall be continuously sampled to at least 30 feet below the elevation (NGVD) of the lowest point of excavation (or lowest point of the zone of incorporation, for landfarms), with the use of thin-wall and/or split-spoon devices or similar coring devices. After 30 feet, samples shall be at a maximum of 5-foot intervals. The Office of Environmental Assessment, Environmental Technology Division, may approve other forms of boreholes logging on a case-by-case basis and with proper justification.

3. Boring Requirements Applicable to Type III Facilities

a. Type III facilities shall install a minimum of three borings and at least one boring for every 8 acres of regulated

unit(s) to a minimum depth of 5 feet below the lowest point of excavation.

b. All borings shall be continuously sampled to at least 5 feet below the lowest point of excavation with the use of the administrative authority's approved form of geological investigation device.

c. Ground surface elevations (NGVD) of the boring location and the lowest point of excavation shall be surveyed or estimated through the use of USGS quadrangle maps.

d. Logs of borings and other forms of geological investigation approved by the administrative authority for Type III facilities shall be submitted on a geologic cross section and shall include applicable information required in Subparagraph C.2.a of this Section.

B. Groundwater Flow Determination Requirements Applicable to Type I and Type II Facilities

1. Groundwater flow directions shall be determined using a minimum of three piezometers or monitoring wells in each water-bearing zone including zones that comprise the uppermost aquifer and uppermost water-bearing permeable zone(s) (if present).

2. Piezometers and monitoring wells that are used to characterize groundwater flow directions shall be constructed, and well-completion diagrams submitted, in accordance with the applicable well construction standards in LAC 33:VII.805.A.3.

3. The reference point of each piezometer and monitoring well that is used for measuring water levels shall be surveyed by a professional surveyor, licensed in the state of Louisiana.

4. Water levels of piezometers and monitoring wells that are used for determining groundwater flow directions shall be measured at least four times in a one-year period (quarterly) to provide seasonal and temporal fluctuations in groundwater flow rates and directions.

C. Geology and Groundwater Flow Characterization Requirements Applicable to Type I and II Facilities

1. Regional Geology and Groundwater Flow Characterization

a. A geologic cross-section from available published information that depicts the stratigraphy to a depth of at least 200 feet below the ground surface shall be provided.

b. The areal extent, thickness, and depth to the upper surface, and any interconnection of aquifers, from all available information shall be provided for all recognized aquifers that have their upper surfaces within 200 feet of the ground surface.

c. The directions and rates of groundwater flow shall be provided for all recognized aquifers that have their upper surface within 200 feet of the ground surface, shown on potentiometric maps.

2. Facility Geology and Groundwater Flow Characterization

a. Geologic cross sections shall be provided for each transect (line of borings) and shall depict the following information in relation to NGVD:

i. lithologic and boring log data from all borings drilled at the facility, including borings for existing, as well as plugged and abandoned, monitoring wells and piezometers;

ii. locations and depths of borings, monitoring wells, and piezometers;

iii. excavation depths (or depths of the zone of incorporation, for landfarms) on applicable cross sections;

iv. screen intervals of all existing and plugged and abandoned monitoring wells and piezometers;

v. other applicable features such as faults, slurry walls, groundwater dewatering systems, etc.; and

vi. identification of individual stratigraphic units, including units that comprise the uppermost aquifer, uppermost water-bearing permeable zone(s) (if present), lower confining unit, and confining unit that underlies the uppermost water-bearing permeable zone(s) (if present).

b. The areal extent, depths, and thickness of all permeable zones to a depth of at least 30 feet below the lowest point of excavation (or zone of incorporation, for landfarms) shall be provided on structure contour maps and isopach maps, including the zones that comprise the uppermost aquifer and uppermost water-bearing permeable zone(s) (if present). Structure contour maps and isopach maps shall display the location of the facility, boring locations, and corresponding elevation or thickness measurement at each boring location.

c. The areal extent, depths, and thickness of the lower confining unit for the uppermost aquifer and the confining unit underlying the uppermost water-bearing permeable zone(s) (if present) shall be provided on structure contour maps and isopach maps. Structure contour maps and isopach maps shall display the location of the facility, boring locations, and corresponding elevation or thickness measurement at each boring location.

d. Any faults that are mapped as existing through the facility shall be displayed on structure contour maps and shall show the fault trace and arrows pointing to the downthrown side of fault.

e. At least four scaled potentiometric surface maps shall be provided over a one-year period (quarterly) for each saturated permeable zone to a depth of at least 30 feet below the lowest point of excavation (or zone of incorporation, for landfarms), including the zone that comprises the uppermost aquifer and uppermost water-bearing permeable zone(s) (if present). Scaled potentiometric surface maps shall display the location of the facility, monitoring well and piezometer locations, and corresponding water level elevation measurement at each well location.

f. Characterization of groundwater flow directions shall be provided between saturated permeable zones. The characterization shall include the use of various illustrations such as potentiometric surface maps, flow nets depicting vertical and horizontal flow directions, etc.

g. Discussion of any change in groundwater flow direction anticipated to result from any facility activities shall be provided.

h. Establishment of zones that comprise the uppermost aquifer, uppermost water-bearing permeable zone(s) (if present), and lower confining unit shall be provided.

i. Groundwater flow rates and calculations shall be provided for each zone that comprises the uppermost aquifer and uppermost water-bearing permeable zone(s) (if present).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1075 (June 2007).

§805. Facility Groundwater Monitoring

A. Groundwater Monitoring System. The following facility groundwater monitoring standards are applicable to all Type I and Type II facilities.

1. At each facility, a groundwater-monitoring system shall be installed that consists of a sufficient number of wells, installed at appropriate locations and depths, in accordance with Paragraph A.2 of this Section, to yield groundwater samples from the uppermost aquifer, and from the uppermost water-bearing permeable zone(s), to yield sufficient quantities of water for sampling that:

a. represent the quality of the background groundwater that has not been affected by leakage from a unit; and

b. represent the quality of groundwater passing the relevant point of compliance. For the purposes of these regulations, the *relevant point of compliance* is the vertical surface that is located no more than 150 meters downgradient from the unit being monitored and extends down into the uppermost aquifer underlying the facility and any other permeable zones being monitored. The distance may be reduced by the administrative authority. The relevant point of compliance shall be on property owned or controlled by the permit holder and shall be selected based on at least the following factors:

i. hydrological characteristics of the facility and the surrounding land;

ii. volume and physical and chemical characteristics of the leachate;

iii. quantity, quality, and direction of flow of groundwater;

iv. proximity and withdrawal rate of the groundwater users;

v. availability of alternative drinking water supplies;

vi. existing quality of the groundwater, including other sources of contamination and their cumulative impacts on the groundwater, and whether the groundwater is currently used or reasonably expected to be used for drinking water; and

vii. public health, safety, and welfare effects.

2. Location of Wells

a. Enough monitoring wells shall be located hydraulically upgradient of the facility to yield samples that represent background groundwater quality as required in Paragraph A.1 of this Section.

b. A minimum of one upgradient well per zone monitored is required.

c. Monitoring wells other than upgradient of the facility may be sampled for background groundwater quality if:

i. hydrologic conditions do not allow the permit holder to determine which wells are hydraulically upgradient; or

ii. sampling at other wells will provide an indication of background groundwater quality that is more representative than sampling of upgradient wells.

d. Enough monitoring wells shall be located hydraulically downgradient from the facility to yield samples that are representative of the groundwater passing the relevant point of compliance. Downgradient monitoring well locations and screen intervals shall target the most likely contaminant pathways. At least two downgradient wells per zone monitored shall be provided. The downgradient wells shall be screened in the same zone as the upgradient wells. Spacing between downgradient wells shall not exceed 800 feet.

e. The number, spacing, and depths of monitoring wells shall be determined based upon site-specific technical information that shall include thorough characterization of:

i. aquifer thickness, groundwater flow rate, and groundwater flow direction including seasonal and temporal fluctuations in groundwater flow; and

ii. saturated and unsaturated geologic units and fill materials overlying the uppermost aquifer, materials comprising the uppermost aquifer, and materials comprising the confining unit defining the lower boundary of the uppermost aquifer, including, but not limited to, thickness, stratigraphy, lithology, hydraulic conductivities, porosities, and effective porosities.

f. The administrative authority will consider for approval multi-unit groundwater monitoring systems, provided these systems meet the requirements of Paragraph A.1 of this Section and will be as protective of human health and the environment as groundwater monitoring systems for individual units.

g. The administrative authority may modify the requirements of this Subsection for site-specific considerations in approving groundwater monitoring systems for ditches.

3. Well Construction

a. Well construction shall be in accordance with the Water Well Rules, Regulations, and Standards, as adopted by the Louisiana Department of Transportation and Development, Water Resources Section, in LAC 56, as well as the guidelines established in the latest version of the LDEQ's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook*.

b. Construction of monitoring wells for facilities regulated by the department shall require approval of the administrative authority prior to construction.

c. In addition to the construction standards set forth in LDOTD's Water Well Rules, Regulations, and Standards, the following is required for monitoring wells.

i. All wells shall have protective casing with locking covers and a secure locking device in place.

ii. All wells shall have guard posts firmly anchored outside the well slab, but not in contact with the slab.

iii. The maximum allowable screen length shall not exceed 10 feet.

iv. A sign or plate shall be permanently affixed to the protective well casing and shall prominently display:

(a) the well identification number;

(b) identification of the well as upgradient or downgradient;

(c) the elevation of the top of the well casing in relation to NGVD;

- (d). screen depth in relation to NGVD; and
- (e). the date of well installation and any subsequent repairs.

4. Post Construction. Within 90 days after construction of the wells, the permit holder or applicant shall submit to the Office of Environmental Services, Waste Permits Division, well-completion details to verify that the wells were constructed according to the approved specifications and to document construction procedures. A permit modification fee will not be required. Well-completion details shall include, but are not limited to:

- a. daily field notes documenting construction procedures and any unusual occurrences, such as grout loss, etc.;

- b. a boring log for each well including surface elevation with respect to NGVD or comparable reference points; and

- c. well-completion diagrams for each well showing all pertinent features, such as the elevation of the reference point for measuring groundwater levels, screen interval, and ground surface. If features change from the approved plans, then a permit-modification request shall be submitted in accordance with LAC 33:VII.517.

5. Plugging and Abandonment of Monitoring Wells and Geotechnical Borings

- a. The Water Well Rules, Regulations, and Standards, as adopted by the Louisiana Department of Transportation and Development, Water Resources Section, in LAC 56, as well as the guidelines established in the latest version of the LDEQ's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook*, shall apply to all plugging and abandonment of wells and holes including, but not limited to, observation wells, monitoring wells, piezometer wells, leak-detection wells, assessment wells, recovery wells, abandoned pilot holes, test holes, and geotechnical boreholes.

- b. In addition to the standards in LDOTD's Water Well Rules, Regulations, and Standards and in the latest version of the LDEQ's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook*, the following standards shall apply to plugging and abandonment.

- i. For any well, the primary method of plugging and abandonment shall be removal of the well's casing and other components of the well, including, but not limited to, the screen, grout, bentonite seal, filter pack, concrete slab, protective casing, guard posts, and native soil in immediate contact with the grout, and subsequent installation of cement-bentonite grout, from the bottom of the resulting borehole to the ground surface using the tremie method.

- ii. In areas where all or a part of the well's casing and other components of the well cannot be plugged and abandoned in accordance with the procedure stated in Clause A.5.b.i of this Section, the well shall be plugged and abandoned by installation of cement-bentonite grout inside the well's casing, from the bottom of the well to the ground surface, provided that the annular seal is demonstrated to be adequately sealed and the following items are submitted:

- (a). supporting documentation, prior to plugging the well, that demonstrates that removal of all or part of the well's casing and other components of the well in accordance

with the procedure stated in Paragraph A.5 of this Section will be detrimental to the environment; and/or

- (b). certification and supporting documentation by a qualified professional well constructor that shows that removal of the well's casing was attempted and that continued attempts to remove all or a part of the well's casing and other components of the well, as stated in Paragraph A.5 of this Section, would have been detrimental to the environment.

- iii. After plugging and abandoning a well, all surface features of the well, including, but not limited to, the concrete slab, guard posts, and protective casing, shall be dismantled and disposed of in an environmentally sound manner, and the surface shall be restored to its original condition.

- iv. The permit holder shall notify the Office of Environmental Assessment, Environmental Technology Division, of the plugging and abandonment of monitoring wells or geotechnical borings and keep records of such abandonments.

6. Monitoring wells, piezometers, and other measurement, sampling, and analytical devices shall be operated and maintained so that they perform to design specifications throughout the life of the monitoring program.

B. Groundwater Sampling and Analysis Requirements

1. A groundwater-monitoring program shall be implemented, at each facility, that includes consistent sampling and analysis procedures that ensure monitoring results are representative of groundwater quality at the background and downgradient well locations.

2. A groundwater sampling and analysis plan shall be prepared that meets the requirements of this Subsection, as well as the requirements of LAC 33:VII.3005.Appendix C, and that includes procedures and techniques for:

- a. sample collection that ensures that collected samples are representative of the zones being monitored and that prevents cross-contamination of or tampering with samples;

- b. sample preservation and shipment that ensure the integrity and reliability of the sample collected for analysis;

- c. chain of custody control;

- d. quality-assurance/quality-control, including detection limits, precision and accuracy of analyses, rinsate samples, field blanks, trip blanks, field duplicates, and matrix spikes/matrix spike duplicates; and

- e. statistical evaluation of the groundwater monitoring data for each parameter or constituent sampled at each monitoring well.

3. The sampling and analysis plan shall provide the sampling frequency and include:

- a. the selection of parameters or constituents to be sampled and analyzed during detection monitoring, and justification for the parameters or constituents, where applicable;

- b. identification of the analytical procedures to be followed (reference source of analytical method); and

- c. the practical quantitation limit (PQL) for each parameter or constituent.

4. The PQL for each groundwater monitoring parameter or constituent shall be:

- a. the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy

during routine laboratory operating conditions that are available to the facility; and

b. equal to or lower than the groundwater protection standard for that parameter or constituent as set in accordance with LAC 33:I.Chapter 13, when applicable.

5. Background groundwater quality shall be established for the facility in a hydraulically upgradient well, or other well as provided in Subparagraph A.2.c of this Section, for each groundwater parameter or constituent.

6. Statistical Methods

a. The number of samples collected to establish groundwater quality data shall be consistent with the appropriate statistical procedures used. A decision tree diagram is included in LAC 33:VII.3005.Appendix C, as a reference in the selection of an appropriate statistical procedure.

b. The statistical methods used in evaluating groundwater data shall be specified in the sampling and analysis plan for each parameter or constituent to be monitored. The statistical test chosen shall be conducted separately for each parameter or constituent in each well. One of the following statistical methods shall be used:

i. a parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method shall include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each parameter or constituent;

ii. an analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method shall include estimation and testing of the contrasts between each compliance well's median and the background median levels for each parameter or constituent;

iii. a tolerance or prediction interval procedure in which an interval for each parameter or constituent is established from the distribution of the background data, and the level of each parameter or constituent in each compliance well is compared to the upper tolerance or prediction limit;

iv. a control chart approach that gives control limits for each parameter or constituent; or

v. another statistical test method that meets the performance standards of Subparagraph B.6.c of this Section. The permit holder shall place a justification for this alternative in the operating record and notify the administrative authority of the use of this alternative test. The justification shall demonstrate that the alternative method meets the performance standards of Subparagraph B.6.c of this Section.

c. Any statistical method chosen under Subparagraph B.6.b of this Section shall comply with the following performance standards, as appropriate.

i. The statistical method used to evaluate groundwater monitoring data shall be appropriate for the distribution of the parameters or constituents. If the distribution of the chemical parameters or constituents or hazardous parameters or constituents is shown by the permit holder to be inappropriate for a normal theory test, then the data should be transformed or a distribution-free theory test should be used. If the distributions for the parameters or

constituents differ, more than one statistical method may be needed.

ii. If an individual well comparison procedure is used to compare an individual compliance well parameter or constituent concentration with background parameters or constituent concentrations or a groundwater protection standard, the test shall be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experiment-wide error rate for each testing period shall be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons shall be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, or control charts.

iii. If a control chart approach is used to evaluate groundwater monitoring data, the specific type of control chart and its associated parameter or constituent values shall be protective of human health and the environment. The parameters or constituents shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each parameter or constituent of concern.

iv. If a tolerance interval or a prediction interval is used to evaluate groundwater monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval shall contain, shall be protective of human health and the environment. These parameters or constituents shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each parameter or constituent of concern.

v. The statistical method shall account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment. Any practical quantitation limit (PQL) that is used in the statistical method shall be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

vi. If necessary, the statistical method shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

d. The permit holder shall determine whether or not there is a statistically significant increase over background values for each parameter or constituent required in the particular groundwater monitoring program that applies to the facility, as determined in Subsections C and D of this Section.

i. In determining whether a statistically significant increase has occurred, the permit holder shall compare the groundwater quality of each parameter or constituent at each monitoring well designated in accordance with Subparagraph A.1.b of this Section to the background value of that parameter or constituent, according to the statistical procedures and performance standards specified under Subparagraphs B.6.b and c of this Section.

ii. Within 90 days after the date of sampling, the permit holder shall determine whether there has been a statistically significant increase over background at each monitoring well.

C. Detection Monitoring Program

1. All Type I and II facilities shall conduct a detection monitoring program as described in this Subsection.

2. Initial Sampling

a. For a new facility, monitoring wells shall be sampled and the groundwater monitoring data for a sampling event shall be submitted to the Office of Environmental Assessment, Environmental Technology Division, before waste is accepted.

b. For an existing facility with no wells in place at the time of the application submittal or at the time at which the facility becomes subject to these regulations, the groundwater monitoring data shall be submitted to the Office of Environmental Assessment, Environmental Technology Division, within 90 days after installation of the monitoring wells.

c. A minimum of four independent samples from each well (upgradient and downgradient) shall be collected and analyzed during the initial sampling event for a facility. The initial sampling event shall consist of quarterly sampling over a 1-year period. Thereafter, at least one sample shall be collected and analyzed at each well for each sampling event.

3. After the initial 1-year sampling event, sampling and analysis of all wells shall be conducted every six months.

4. The groundwater monitoring program shall be conducted for the life of the facility and for the duration of the post-closure care period of the facility, which is specified in LAC 33:VII.721.E or 723.E. Groundwater monitoring may be extended beyond the period specified if deemed necessary by the administrative authority.

5. The permit holder or applicant shall submit three bound copies (8 1/2 by 11 inches) of a report of all groundwater sampling results to the Office of Environmental Assessment, Environmental Technology Division, no later than 90 days after each sampling event.

a. The reports shall be submitted on forms provided by the administrative authority and shall include, at a minimum:

i. documentation of the chain of custody of all sampling and analyses;

ii. scaled potentiometric surface maps showing monitoring well and piezometer locations and groundwater elevations with respect to NGVD for each stratum monitored;

iii. plots by well showing concentration of parameters or constituents versus time. If the facility is conducting assessment or corrective action monitoring, then in addition to the plots by well of concentration versus time, an isopleth map shall be submitted for each zone monitored; and

iv. a statement of whether a statistically significant difference in concentration over background concentrations is detected.

b. The administrative authority may waive or require information to be included in each groundwater sampling report.

6. If a statistically significant increase over background concentrations is determined for one or more parameters or constituents required to be monitored, the permit holder shall:

a. submit to the Office of Environmental Assessment, Environmental Technology Division:

i. within 14 days after the determination is made, a report that identifies which parameters or constituents were determined to have shown statistically significant changes over background levels; and

ii. written notification at least 14 days prior to conducting any verification resampling event; and

b. within 90 days after the determination is made:

i. initiate an assessment monitoring program for the facility meeting the requirements of Subsection D of this Section; or

ii. submit a report to the Office of Environmental Assessment, Environmental Technology Division, demonstrating that a source other than the facility being sampled caused the contamination or that the statistically significant increase resulted from an error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. If the administrative authority approves this demonstration, in writing, the permit holder may continue the detection monitoring program. If the administrative authority does not approve the demonstration, in writing, the permit holder shall establish an assessment monitoring program meeting the requirements of Subsection D of this Section within 90 days after the determination in this Paragraph is made.

7. Detection Monitoring Parameters or Constituents

a. During detection monitoring, Type I landfills and Type I surface impoundments (except Type I landfills that are also Type II landfills and Type I surface impoundments that are associated with such Type I landfills) shall monitor for at least 10 chemical parameters or constituents, both inorganic and organic, that are indicator parameters or constituents or reaction products of the waste and that provide a reliable indication of the presence of contaminants in the groundwater. The administrative authority may reduce the number of parameters, if appropriate, based on site-specific and waste-specific consideration. Selection of these parameters or constituents is subject to the approval of the administrative authority and shall be based on the following factors:

i. types, quantities, and concentrations of constituents in the wastes disposed of at the facility;

ii. mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the facility;

iii. detectability of indicator parameters, waste constituents, or their reaction products in the groundwater; and

iv. concentrations or values and coefficients of variation of the proposed monitoring parameters or constituents in the background groundwater at the facility.

b. During detection monitoring, Type II landfills, including Type II surface impoundments associated with Type II landfills, shall be monitored for all the parameters or constituents listed in LAC 33:VII.3005.Appendix C, Table 1.

c. During detection monitoring, Type I landfarms, including runoff and containment areas (ROCAs) or surface impoundments associated with Type I landfarms, shall be monitored for the same parameters or constituents as provided for Type II landfarms in Subparagraph C.7.d of this Section and also for at least six parameters or constituents,

both organic and inorganic, that are intrinsic to the wastes being disposed at the facility. The intrinsic parameters or constituents shall be selected on the basis of the factors in Clauses C.7.a.i-iv of this Section and shall be subject to the approval of the administrative authority.

d. During detection monitoring, Type II landfarms, including runoff and containment areas (ROCA) or surface impoundments associated with such landfarms, shall be monitored for 5-day biochemical oxygen demand (BOD₅), fecal coliform, total dissolved solids (TDS), nitrate, total Kjeldahl nitrogen, and polychlorinated biphenyls (PCBs), if applicable.

e. Type II surface impoundments shall be monitored for the same parameters or constituents as provided for Type II landfarms in Subparagraph C.7.d of this Section.

f. The administrative authority may waive or require additional parameters or constituents, based on site-specific or waste-specific information.

D. Assessment Monitoring Program for Type I and Type II Facilities

1. An assessment monitoring program as described in this Subsection is required to be conducted at Type I and Type II facilities whenever a statistically significant increase over background concentrations is detected for one or more of the parameters or constituents sampled and analyzed during the detection monitoring program.

2. The assessment monitoring parameters for:

a. Type II landfills and associated Type II impoundments shall be the parameters listed in Table 2 of LAC 33:VII.3005.Appendix C; and

b. Type I and Type II facilities, other than Type II landfills and associated Type II impoundments, shall be the detection monitoring parameters or constituents listed in Table 1 of LAC 33:VII.3005.Appendix C, although the administrative authority may add additional parameters or constituents on a site-specific and waste-specific basis.

3. Within 90 days of triggering an assessment monitoring program, and annually thereafter, the permit holder shall sample and analyze the groundwater for the assessment monitoring parameters or constituents. A minimum of one sample from each downgradient well shall be collected and analyzed during each sampling event. For any parameter or constituent detected in the downgradient wells as a result of sampling for the assessment monitoring parameters or constituents, a minimum of four independent samples from each well (background and downgradient) shall be collected and analyzed to establish background for the parameters or constituents.

a. The administrative authority may specify an appropriate subset of the wells to be sampled and analyzed for assessment monitoring parameters or constituents during assessment monitoring.

b. The administrative authority may delete any of the assessment monitoring parameters or constituents for a facility if it can be shown that the omitted parameters or constituents are not reasonably expected to be in or derived from the waste contained in the unit.

4. No later than 90 days after the completion of the initial or subsequent sampling events for all assessment monitoring parameters or constituents required in Paragraph D.3 of this Section, the permit holder shall submit a report to

the Office of Environmental Assessment, Environmental Technology Division, identifying the assessment monitoring parameters or constituents that have been detected. No later than 180 days after completion of the initial or subsequent sampling events for all assessment monitoring parameters or constituents required in Paragraph D.3 of this Section, the permit holder shall:

a. resample all wells and analyze for all detection monitoring parameters or constituents and for those assessment monitoring parameters or constituents that are detected in response to Paragraph D.3 of this Section. At least one sample shall be collected from each well (background and downgradient) during these sampling events. This sampling shall be repeated semiannually thereafter;

b. establish background groundwater concentrations for any parameter or constituent detected in accordance with Paragraph D.3 or 4 of this Section; and

c. establish groundwater protection standards for all parameters or constituents detected in accordance with Paragraph D.3 or 4 of this Section. The groundwater protection standards shall be established in accordance with Paragraph D.8 of this Section.

5. If the concentrations of all assessment monitoring parameters or constituents are shown to be at or below background values, using the statistical procedures in Paragraph B.6 of this Section or other EPA-approved methods for comparison to a fixed limit (such as an MCL), for two consecutive sampling events, the permit holder shall notify the Office of Environmental Assessment, Environmental Technology Division, and upon written approval of the administrative authority, may return to detection monitoring.

6. If the concentrations of any assessment monitoring parameters or constituents are above background values, but all concentrations are below the groundwater protection standard established under Paragraph D.8 of this Section, using the statistical procedures in Paragraph B.6 of this Section or other EPA-approved methods for comparison to a fixed limit (such as an MCL), the permit holder will be placed in assessment monitoring for the life of the facility or until the assessment monitoring parameters are below the established background values. As part of the corrective action development, the permit holder shall submit a work plan for approval to the Office of Environmental Assessment, Environmental Technology Division.

a. This work plan shall include:

i. proposal of additional groundwater wells outside the area of contamination in order to demonstrate that the facility has control of the plume and/or source of contamination;

ii. proposal of semiannual groundwater monitoring reports demonstrating that the concentrations of the constituents of concern is not increasing;

iii. a scaled figure depicting the location of the area of investigation, existing and proposed groundwater monitoring wells, and property boundaries;

iv. scaled potentiometric maps depicting water elevations of all existing and proposed monitoring wells. These maps shall be submitted as part of the semiannual groundwater monitoring reports; and

v. an isopleth map for each well of all parameters or constituents, or plots by well concentration of parameters or constituents verses time.

b. The Office of Environmental Assessment, Environmental Technology Division, may request additional information based on the data submitted in the work plan.

7. If one or more assessment monitoring parameters or constituents are detected at statistically significant levels above the groundwater protection standard established in Paragraph D.8 of this Section, in any sampling event, using the statistical procedures in Paragraph B.6 of this Section or other EPA-approved methods for comparison to a fixed limit (such as an MCL), the permit holder shall, within 14 days of the determination, notify all appropriate local government officials and submit a report to the Office of Environmental Assessment, Environmental Technology Division, identifying the assessment monitoring parameters or constituents that have exceeded the groundwater protection standard. The permit holder shall comply with one of the following requirements.

a. The permit holder shall:

i. within 90 days after the determination is made, submit four bound copies (8 1/2 x 11 inches) of an assessment plan to the Office of Environmental Assessment, Environmental Technology Division, as well as any necessary permit modification to the Office of Environmental Services, Waste Permits Division, that provides for:

(a). characterization of the nature and extent of the release by installing and sampling additional monitoring wells as necessary;

(b). installation of at least one additional monitoring well at the facility boundary in the direction of the contaminant migration and sampling of this well in accordance with Subparagraph D.4.b of this Section; and

(c). a schedule for implementing the plan;

ii. notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off site as indicated by the sampling of the wells in accordance with Clause D.7.a.i of this Section;

iii. upon consultation with and approval of the administrative authority, implement any interim measures necessary to ensure the protection of human health and the environment. Interim measures shall, to the greatest extent practicable, be in accordance with LAC 33:I.Chapter 13 and be consistent with the objectives of and contribute to the performance of any remedy that may be required in accordance with Subsection F of this Section. The following factors shall be considered by a permit holder in determining whether interim measures are necessary:

(a). the time required to develop and implement a final remedy;

(b). actual or potential exposure of nearby populations or environmental receptors to hazardous parameters or constituents;

(c). actual or potential contamination of drinking water supplies or sensitive ecosystems;

(d). further degradation of the groundwater that may occur if remedial action is not initiated expeditiously;

(e). weather conditions that may cause hazardous parameters or constituents to migrate or be released;

(f). risk of fire or explosion, or potential for exposure to hazardous parameters or constituents as a result of an accident or failure of a container or handling system; and

(g). other situations that may pose threats to human health and the environment;

iv. initiate an assessment of corrective measures as required by Subsection E of this Section.

b. If the facility being sampled did not cause the contamination, the permit holder may submit a report to the Office of Environmental Assessment, Environmental Technology Division, demonstrating that a source other than the facility being sampled caused the contamination, or the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. If the administrative authority approves this demonstration in writing, the permit holder shall continue assessment monitoring at the facility in accordance with this Subsection or may return to detection monitoring if the assessment monitoring parameters or constituents are below background as specified in Paragraph D.5 of this Section. Until such a written approval is given, the permit holder shall comply with Subparagraph D.7.a of this Section, including initiating an assessment of corrective action measures.

8. The permit holder shall establish a groundwater protection standard for each assessment monitoring parameter or constituent detected in the groundwater. The groundwater protection standard shall be in accordance with LAC 33:I.Chapter 13.

E. Assessment of Corrective Measures at Type I and Type II Facilities

1. Within 90 days of finding that any of the assessment monitoring parameters or constituents listed in Table 2 of LAC 33:VII.3005.Appendix C have been detected at a statistically significant level exceeding the groundwater protection standards defined in Paragraph D.8 of this Section, the permit holder shall initiate an assessment of corrective measures.

2. The permit holder shall continue to monitor in accordance with the assessment monitoring program throughout the period of corrective action, as specified in Subsection D of this Section.

3. The assessment shall include an analysis of the effectiveness of potential corrective measures in meeting all of the requirements and objectives of the remedy as described in Subsection F of this Section, addressing at least the following:

a. performance, reliability, ease of implementation, and potential impacts of appropriate potential remedies, including safety impacts, cross-media impacts, and control of exposure to any residual contamination;

b. the time required to begin and complete the remedy;

c. the costs of remedy implementation; and

d. institutional requirements such as state or local permit requirements or other environmental or public health requirements that may substantially affect implementation of the remedy.

4. For Type II landfills and associated surface impoundments, the results of the corrective measures assessment shall be discussed by the permit holder, in a

public meeting prior to the selection of remedy, with interested and affected parties.

F. Selection of Remedy and Corrective Action Plan at Type II Landfills and Associated Surface Impoundments

1. Based on the results of the corrective measures assessment required in Subsection E of this Section, the permit holder shall select a remedy that, at a minimum, meets the standards of Paragraph F.2 of this Section. Within 180 days after initiation of the corrective measures assessment required in Subsection E of this Section, the permit holder shall submit four bound copies (8 1/2 by 11 inches) of a corrective action plan to the Office of Environmental Assessment, Environmental Technology Division, describing the selected remedy, which will meet the requirements of Paragraphs F.2-4 of this Section and be in accordance with LAC 33:I.Chapter 13. The corrective action plan shall also provide for a corrective action groundwater monitoring program as described in Subparagraph G.1.a of this Section.

2. Remedies shall:

- a. be protective of human health and the environment;
- b. attain the groundwater protection standard as specified in accordance with Paragraph D.8 of this Section;
- c. control the source of releases so as to reduce or eliminate, to the maximum extent practicable, further releases of assessment monitoring parameters or constituents into the environment that may pose a threat to human health or the environment; and
- d. comply with standards for management of wastes as specified in Paragraph G.7 of this Section.

3. In selecting a remedy that meets the standards of Paragraph F.2 of this Section, the permit holder shall consider the following evaluation factors:

- a. long-term and short-term effectiveness and protectiveness of the potential remedy, along with the degree of certainty that the remedy will prove successful based on consideration of the following:
 - i. the magnitude of reduction of existing risks;
 - ii. the magnitude of residual risks in terms of likelihood of further releases due to waste remaining following implementation of a remedy;
 - iii. the type and degree of long-term management required, including monitoring, operation, and maintenance;
 - iv. short-term risks that might be posed to the community, workers, or the environment during implementation of such a remedy, including potential threats to human health and the environment associated with excavation, transportation, and redisposal of containment;
 - v. the time until full protection is achieved;
 - vi. the potential for exposure of humans and environmental receptors to remaining wastes, considering the potential threat to human health and the environment associated with excavation, transportation, redisposal, or containment;
 - vii. the long-term reliability of the engineering and institutional controls; and
 - viii. the potential need for replacement of the remedy;
- b. the effectiveness of the remedy in controlling the source to reduce further releases based on consideration of the following factors:

- i. the extent to which containment practices will reduce further releases; and
- ii. the extent to which treatment technologies may be used;
- c. the ease or difficulty of implementing a potential remedy based on consideration of the following types of factors:
 - i. the degree of difficulty associated with constructing the technology;
 - ii. the expected operational reliability of the technologies;
 - iii. the need to coordinate with and obtain necessary approvals and permits from other agencies;
 - iv. the availability of necessary equipment and specialists; and
 - v. the available capacity and location of needed treatment, storage, and disposal services;
- d. the practicable capability of the permit holder, including a consideration of the technical and economic capability; and
- e. the degree to which community concerns are addressed by a potential remedy.

4. The permit holder shall specify, as part of the selected remedy, a schedule for initiating and completing remedial activities. Such a schedule shall require the initiation of remedial activities within a reasonable period of time. The permit holder shall consider the following factors in determining the schedule of remedial activities:

- a. the extent and nature of the contamination;
- b. the practical capabilities of remedial technologies in achieving compliance with groundwater protection standards established in Paragraph D.8 of this Section and other objectives of the remedy;
- c. the availability of treatment or the disposal capacity for wastes managed during implementation of the remedy;
- d. the desirability of utilizing technologies that are not currently available, but which may offer significant advantages over already available technologies in terms of effectiveness, reliability, safety, or ability to achieve remedial objectives;
- e. potential risks to human health and the environment from exposure to contamination prior to completion of the remedy;
- f. the resource value of the aquifer, including:
 - i. current and future uses;
 - ii. proximity and withdrawal rate of users;
 - iii. groundwater quantity and quality;
 - iv. potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to parameters or constituents;
 - v. the hydrogeologic characteristic of the facility and surrounding land;
 - vi. groundwater removal and treatment costs;
 - vii. the cost and availability of alternative water supplies;
- viii. the practicable capability of the permit holder; and
- g. other relevant factors.

5. The administrative authority may determine that remediation of a release of an assessment monitoring parameter or constituent from a facility is not necessary if

the permit holder demonstrates to the satisfaction of the administrative authority that:

a. the groundwater is additionally contaminated by substances that have originated from a source other than a facility, and those substances are present in such concentrations that cleanup of the release from the facility would provide no significant reduction in risk to actual or potential receptors;

b. a parameter or constituent is present in groundwater that is:

i. not currently or reasonably expected to be a source of drinking water; and

ii. not hydraulically connected with waters to which the parameters or constituents are migrating or are likely to migrate in a concentration that would exceed the groundwater protection standards established in Paragraph D.8 of this Section;

c. remediation of the release is technically impracticable; or

d. remediation results in unacceptable cross-media impacts.

6. A determination by the administrative authority in accordance with Paragraph F.5 of this Section shall not affect the authority of the administrative authority to require the permit holder to undertake source control measures or other measures that may be necessary to eliminate or minimize further releases to the groundwater, to prevent exposure to the groundwater, or to remediate the groundwater to concentrations that are technically practicable and that significantly reduce threats to human health or the environment.

G. Implementation of the Corrective Action Programs at Type I and Type II Facilities

1. After the corrective action plan has been approved by the administrative authority and, based on the corrective action plan schedule established under Paragraph F.4 of this Section for initiation and completion of remedial activities, the permit holder shall:

a. implement a corrective action groundwater monitoring program as described in the approved corrective action plan that:

i. at a minimum, meets the requirements of an assessment monitoring program in Subsection D of this Section;

ii. indicates the effectiveness of the corrective action remedy; and

iii. demonstrates compliance with the groundwater protection standard in accordance with Paragraph D.8 of this Section; and

b. implement the corrective action plan established under Subsection F of this Section.

2. A permit holder may submit a report to the Office of Environmental Assessment, Environmental Technology Division, demonstrating, based on information developed after implementation of the corrective action plan has begun or other information, that compliance with requirements of Paragraph F.2 of this Section are not being achieved through the remedy selected. A revised corrective action plan providing other methods or techniques that could practically achieve compliance with the requirements of Paragraph F.2 of this Section shall accompany the demonstration.

3. If the administrative authority approves, in writing, the demonstration and revised corrective action plan submitted in accordance with Paragraph G.2 of this Section, the permit holder shall implement the revised corrective action plan.

4. The permit holder may submit a report to the Office of Environmental Assessment, Environmental Technology Division, demonstrating that compliance with the requirements of Paragraph F.2 of this Section cannot be achieved with any currently available methods.

5. If the administrative authority approves, in writing, the demonstration submitted in accordance with Paragraph G.4 of this Section, the permit holder shall, within 30 days of the approval, submit a plan to the Office of Environmental Assessment, Environmental Technology Division, (which includes an implementation schedule) to implement alternate measures in accordance with LAC 33:1.Chapter 13:

a. to control exposure of humans and the environment to residual contamination as necessary to protect human health and the environment; and

b. for the control of the sources of contamination, or for the removal or decontamination of equipment, devices, or structures, that are technically practicable and consistent with the overall objective of the remedy.

6. If the administrative authority approves the plan for alternate measures submitted in accordance with Paragraph G.5 of this Section, the permit holder shall implement the plan.

7. All solid wastes that are managed in accordance with a remedy required in Subsection F of this Section, or an interim measure required in Clause D.7.a.iii of this Section, shall be managed in a manner:

a. that is protective of human health and the environment; and

b. that complies with applicable RCRA requirements.

8. Remedies selected in accordance with Subsection F of this Section shall be considered complete when:

a. the permit holder complies with the groundwater protection standards established in Paragraph D.8 of this Section at all points within the plume of contamination that lie beyond the groundwater monitoring well system established in Subsection A of this Section; and

b. compliance with the groundwater protection standards established in Paragraph D.8 of this Section has been achieved by demonstrating that concentrations of assessment monitoring parameters or constituents have not exceeded the groundwater protection standard for a period of three consecutive years using the statistical procedures and performance standards in Paragraph B.6 of this Section. The administrative authority may specify an alternative length of time during which the permit holder shall demonstrate that concentrations of the assessment monitoring parameters or constituents have not exceeded the groundwater protection standard, taking into consideration:

i. the extent and concentration of the release;

ii. behavior characteristics of the hazardous parameters or constituents in the groundwater;

iii. accuracy of monitoring or modeling techniques, including any seasonal, meteorological, or other environmental variabilities that may affect the accuracy; and

- iv. the characteristics of the groundwater; and
- c. all actions required to complete the remedy have been satisfied.

9. Upon completion of the remedy, the permit holder shall submit to the administrative authority, within 14 days, a certification that the remedy has been completed in compliance with the requirements of Paragraph G.8 of this Section. The certification shall be signed by the permit holder and approved by the administrative authority.

10. When, upon completion of the certification, the administrative authority determines that the corrective action remedy has been completed in accordance with the requirements of Paragraph G.8 of this Section, the permit holder shall be released from the requirements for financial assurance for corrective action in LAC 33:VII.1305.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1077 (June 2007).

Chapter 9. Enforcement

§901. Failure to Comply

A. Failure of any person to comply with any of the provisions of these regulations or of the terms and conditions of any permit granted or order issued hereunder constitutes a violation of the Act.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1085 (June 2007).

§903. Investigations: Purposes, Notice

A. Investigations shall be undertaken to determine whether a violation has occurred or is about to occur, the scope and nature of the violation, and the persons or parties involved. The results of an investigation shall be given to any complainant who provided the information prompting the investigation, upon written request and, if advisable, to the person under investigation, if the identity of such person is known.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1085 (June 2007).

§905. Development of Facts, Reports

A. The administrative authority may conduct inquiries and develop facts in investigations by staff investigatory procedures or formal investigations and may conduct inspections and examinations of facilities and records. The administrative authority or his presiding officer may hold public hearings and/or issue subpoenas pursuant to R.S. 30:2025(I) and require attendance of witnesses and production of documents, or may take such other action as may be necessary and authorized by the Act or rules promulgated by the administrative authority. At the conclusion of the investigation, all facts and information concerning any alleged violation that have been developed shall be compiled by the staff of the department. A report of the investigation shall be presented to the administrative

authority for use in possible enforcement proceedings. Any complainant who provided the information prompting the investigation shall be notified of its results.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1085 (June 2007).

§907. Enforcement Action

A. When the administrative authority determines that a violation of the Act or these regulations or the terms and conditions of any permit issued hereunder has occurred or is about to occur, he shall initiate one or more of the actions set forth in R.S. 30:2025, or as otherwise provided by appropriate rules.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1085 (June 2007).

§909. Closing Unauthorized and Promiscuous Dumps

A. The administrative authority shall require closure of unauthorized dumps either by removal of the waste to an approved solid waste facility or by completing on-site closure requirements. The method of closure must be approved by the administrative authority prior to closure.

B. After an unauthorized dump is discovered, the administrative authority may issue an enforcement action with a closure directive to the owner/operator. Directives issued for unauthorized dumps shall require closure of the unauthorized dump in accordance with the procedures in this Section.

C. Requirements for on-site closure are as follows.

1. If required, or authorized and approved, by the administrative authority, closure shall be conducted in accordance with LAC 33:I.Chapter 13. However, the requirements of Subparagraph C.2.g of this Section shall apply. If closure in accordance with LAC 33:I.Chapter 13 results in constituent-of-concern levels remaining above those allowed for residential scenarios, the requirements of Subparagraph C.2.f of this Section shall also apply.

2. If closure will not be conducted in accordance with Paragraph C.1 of this Section, then approval or authorization may be granted by the administrative authority for the following alternative closure requirements:

- a. extinguish all fires;
- b. dewater and either solidify waste for return to the landfill or discharge it as governed by a NPDES/LPDES permit, if applicable;
- c. implement a disease vector extermination program, if applicable;
- d. compact the waste with suitable equipment;
- e. provide a final cover consisting of a minimum of 24 inches of silty clays and 6 inches of topsoil cover for supporting vegetative growth, and revegetate the area to control erosion if necessary;
- f. record in the parish mortgage and conveyance records a document describing the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the

name of the person with knowledge of the contents of the facility, as well as providing the chemical levels remaining, if present. A true copy of the document, filed and certified by the parish clerk of court, shall be sent to the Office of Environmental Compliance, Enforcement Division; and

g. conduct long-term monitoring in accordance with Subsection E of this Section, if deemed necessary by the administrative authority.

D. Inspection and Reports. The administrative authority reserves the right to inspect the facility to determine if the requirements for closure have been met.

E. Long-Term Monitoring Responsibilities. The administrative authority may require the following or other long-term monitoring responsibilities of the person legally responsible for the unauthorized dump if deemed necessary.

1. Installation of groundwater monitoring wells in accordance with LAC 33:VII.709.E may be required, along with semiannual reporting for a period of 10 years of monitoring of the facility after closure, or longer if deemed necessary, on a facility-specific basis.

2. Annual reports may be required for a period of three years, or longer if deemed necessary, on the condition of the final cover and the use of the property.

F. An owner who voluntarily requests closure of a promiscuous dump shall close it either by removal of the waste to an approved solid waste facility or by completing on-site closure requirements in accordance with Subsection C of this Section. The method of closure must be approved by the administrative authority prior to closure. The department reserves the right to apply the provisions of Subsections C, D, and E of this Section to close promiscuous dumps.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and specifically 2025, 2039, and 2155.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2501 (October 2005), LR 33:1085 (June 2007).

Chapter 11. Solid Waste Beneficial Use and Soil Reuse §1101. Applicability

A. Solid waste beneficial use and soil reuse options apply to all solid waste generators. Solid waste beneficial use is available to solid waste streams that are typically disposed of in a solid waste disposal facility and that meet certain requirements as described in this Chapter.

B. Sewage sludge (including domestic septage) shall be generated, treated, processed, composted, blended, mixed, prepared, transported, used, or disposed of in accordance with LAC 33:IX.Chapter 69.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1086 (June 2007).

§1103. On-Site Soil Reuse Requirements

A. Soil that is to be reused on-site is exempt from these regulations provided the level of contaminants in the soil is at or below the pertinent RECAP standards developed by the

department in accordance with LAC 33:I.Chapter 13, as applicable to surface soil meeting the *non-industrial* standards in the RECAP document. This Section is limited to *in situ* contaminated soil and does not include sludges and sediments from regulated solid waste units. Any person claiming this exemption shall have records clearly documenting the particular soils reused on-site pursuant to the exemption, including, for example, soil source, soil quantities, and site locations where the soil was reused.

B. Soil that is not exempt under Subsection A of this Section and that is to be reused on-site at an *industrial/commercial* property, as that term is defined in the RECAP document, is exempt from these regulations, provided that:

1. the level of contaminants in the soil is at or below the pertinent RECAP standards developed by the department in accordance with LAC 33:I.Chapter 13, as applicable to surface soil located in an area meeting the *industrial* standards (MO-1 or MO-2) in the RECAP document;

2. the owner or operator of the property notifies the Office of Environmental Services, Waste Permits Division, in writing, of his intent to reuse soil on-site, and attaches the following to the notification:

a. a characterization of the soil in question;

b. a description of the property in question;

c. a description of the proposed uses of the soil on-site (e.g., levee construction, road bed construction, construction fill, daily cover in a regulated facility, etc.); and

d. an on-site soil reuse plan regarding the reuse of the soil in question, which shall address at least the following:

i. procedures for storage of the soil pending reuse;

ii. procedures for handling, transportation, and application of the soil on-site;

iii. procedures for recordkeeping; and

iv. any other procedures required for the protection of human health and the environment (e.g., security, restricted site access, institutional controls, control of storm water runoff, etc.); and

3. the administrative authority notifies the owner/operator of the facility upon the approval of the on-site soil reuse plan.

C. Soil that is not addressed in Subsection A or B of this Section and that is to be reused on-site shall be addressed in accordance with LAC 33:VII.303.A.11, or LAC 33:VII.Chapter 11, or as otherwise deemed appropriate by the administrative authority.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1086 (June 2007).

§1105. Beneficial Use of Other Solid Waste

A. An application for beneficial use of solid waste streams shall provide the following information:

1. the name, address, and telephone number of the applicant;

2. the name, address, and telephone number of the applicant's primary contact for departmental correspondence

and inquiries, and of the applicant's attorney or other representative, if applicable;

3. the address or site of origin of the solid waste proposed for beneficial use;

4. the chemical and physical characteristics of the material to be beneficially used;

5. statements of the quantity, quality, consistency, and source of the solid waste;

6. a description of the process by which the solid waste is generated, and a demonstration that the generator has minimized the quantity and toxicity of the solid waste proposed for beneficial use to the extent reasonably practicable. The applicant shall provide a detailed narrative and schematic diagram of the production, manufacturing, and/or residue process by which the solid waste that will be beneficially used is generated;

7. a detailed description of the processing activity, if applicable, that will be used to make the solid waste suitable for beneficial use;

8. a demonstration that there is a known or reasonably probable market for the intended use of the beneficial use material, such as a contract to purchase or utilize the material, a description of how the material will be used, and a demonstration that the material complies with industry standards for a product, or other documentation that a market exists;

9. a description of the proposed methods of handling, storing, and utilizing the beneficial use material to ensure that it will not adversely affect the public health or safety, or the environment. This description shall consist of:

a. a statement of procedures to be employed for periodic testing for quality control purposes;

b. a statement of intended storage procedures that will be used, including:

i. run-on/run-off control;

ii. the maximum anticipated inventory;

iii. measures to ensure that no contamination of underlying soil or groundwater occurs;

iv. measures for dispersion control due to wind; and

c. recordkeeping procedures;

10. an acknowledgement that at least 75 percent of the material placed in storage during a year will be sent to market or to other secure storage within the following year, unless the operator demonstrates that a particular order requires greater than one year of product storage prior to shipment;

11. a demonstration that the end use of the material is protective of public health, safety, and the environment;

12. a discussion of the end users of the material and the locations of the end-use; and

13. any other information the secretary may require or the applicant believes will demonstrate that the proposed beneficial use of the material will conserve, improve, and/or protect human health, natural resources, and the environment.

B. The application shall be signed by the applicant and the individual or individuals responsible for actually preparing the information and supporting data submitted with the application, each of whom shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments

thereto, and I certify that, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate, and complete to the best of my knowledge and belief.

"I understand that a false statement made in the submitted information may be punishable as a criminal offense, in accordance with La. R.S. 30:2025(F) and in accordance with any other applicable statute."

C. Upon approval the material shall be handled, processed, stored, or otherwise managed in accordance with the proposed plan outlined in the application.

D. Respondents in actions to enforce regulations who raise a claim that the transportation, storage, handling, processing, and/or use of certain material has been approved by the administrative authority pursuant to this Section must demonstrate that there is a known or reasonably probable market or disposition for the material and that the terms of this Section and any department approval are met. In doing so, respondents must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not discarded, but is, instead, subject to beneficial use. In addition, owners or operators of facilities claiming that they actually are preparing materials for beneficial use pursuant to this Section must be able to show that they have the necessary equipment to do so. The administrative authority may revoke or rescind any prior approval provided by the department pursuant to this Section upon failure of a respondent to provide adequate proof in accordance with this Subsection.

E. The Louisiana Pulp and Paper Association and the department established an agreement in May 1997 regarding the applicability of the solid waste regulations (LAC 33:Part VII) to a variety of materials produced by the pulp and paper industry. This agreement, found in LAC 33:VII.3017.Appendix I, may be utilized by the pulp and paper industry in lieu of submitting a beneficial use plan.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1086 (June 2007).

§1107. Part II Supplementary Information Required for Beneficial-Use Facilities

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repealed by the Office of the Secretary, Legal Affairs Division, LR 33:1087 (June 2007).

§1109. Standards Governing Beneficial-Use Facilities

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), repromulgated LR 27:40 (January 2001), LR 27:705 (May 2001), amended by the Office of

Environmental Assessment, LR 30:2027 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2501 (October 2005), repealed LR 33:1087 (June 2007).

Chapter 13. Financial Assurance for All Processors and Disposers of Solid Waste
[Formerly Chapter 7.Subchapter E]

NOTE: Former Chapter 13 has moved to Chapter 14.

§1301. Financial Responsibility During Operation
[Formerly §727.A.1]

NOTE: Former §1301 has moved to §1401.

A. Financial Responsibility for Type I, I-A, II, II-A, and III Facilities. Permit holders or applicants for standard permits of Type I, I-A, II, II-A, and III facilities have the following financial responsibilities while the facility is in operation.

1. Type I and II facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of \$1 million per occurrence and \$1 million annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services, Waste Permits Division.

2. Type I-A and II-A facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of \$500,000 per occurrence, and \$500,000 annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services, Waste Permits Division.

3. Type III facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of \$250,000 per occurrence, and \$250,000 annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services, Waste Permits Division.

B. Establishment of Financial Responsibility. The financial responsibility during operation may be established by any one or a combination of the following: an insurance policy, a letter of credit, or the financial test and/or corporate guarantee.

1. Insurance. Evidence of liability insurance shall consist of either a signed duplicate original of a solid waste liability endorsement or a certificate of insurance.

a. All liability endorsements and certificates of insurance must include:

i. a statement of coverage relative to environmental risks;

ii. a statement of all exclusions to the policy; and

iii. a certification by the insurer that the insurance afforded with respect to such sudden accidental occurrences is subject to all of the terms and conditions of the policy, provided, however, that any provisions of the policy inconsistent with the following Subclauses are amended to conform with said Subclauses:

(a). bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy;

(b). the insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such

payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in Paragraph B.2, 3, or 4 of this Section;

(c). whenever requested by the administrative authority, the insurer agrees to furnish to the administrative authority a signed duplicate original of the policy and all endorsements;

(d). cancellation of the policy, whether by the insurer or the insured, shall be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the Office of Environmental Services, Waste Permits Division;

(e). any other termination of the policy shall be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the Office of Environmental Services, Waste Permits Division; and

(f). the insurer is admitted, authorized, or eligible to conduct insurance business in Louisiana.

b. Liability Endorsement. The wording of the liability endorsement shall be identical to the wording in LAC 33:VII.1399.Appendix A, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

c. Certificate of Liability Insurance. The wording of the certificate of insurance shall be identical to the wording in LAC 33:VII.1399.Appendix B, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

2. Letter of Credit. A permit holder or applicant may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the following requirements, and by submitting the letter to the administrative authority.

a. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

b. A permit holder or applicant who uses a letter of credit to satisfy the requirements of this Section must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the administrative authority will be deposited by the issuing institution directly into the standby trust fund. The wording of the standby trust fund agreement shall be as specified in LAC 33:VII.1399.Appendix D; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

c. The letter of credit shall be accompanied by a letter from the permit holder or applicant referring to the letter of credit by number, name of issuing institution, and date, and providing the following information:

i. agency interest number;

ii. solid waste identification number;

iii. site name;

iv. facility name;

v. facility permit number; and

vi. the amount of funds assured for liability coverage of the facility by the letter of credit.

d. The letter of credit must be irrevocable and issued for a period of at least one year unless, at least 120

days before the current expiration date, the issuing institution notifies both the permit holder and the administrative authority by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days shall begin on the date when both the permit holder and the Office of Environmental Services, Waste Permits Division, receive the notice, as evidenced by the return receipts.

e. The wording of the letter of credit shall be identical to the wording in LAC 33:VII.1399.Appendix C, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

3. Financial Test

a. To meet this test, the applicant, the permit holder, or the parent corporation (corporate guarantor) of the applicant or permit holder must submit to the Office of Environmental Services, Waste Permits Division, the documents required by LAC 33:VII.1303 demonstrating that the requirements of that Section have been met. Use of the financial test may be disallowed on the basis of the accessibility of the assets of the permit holder, applicant, or parent corporation (corporate guarantor). If the applicant, permit holder, or parent corporation is using the financial test to demonstrate liability coverage and closure and post-closure care, only one letter from the chief financial officer is required.

b. The assets of the parent corporation of the applicant or permit holder shall not be used to determine whether the applicant or permit holder satisfies the financial test, unless the parent corporation has supplied a corporate guarantee as authorized in Paragraph B.4 of this Section.

c. The wording of the financial test shall be as specified in LAC 33:VII.1399.Appendix I; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

4. Corporate Guarantee. A permit holder or applicant may meet the requirements of this Section for liability coverage by obtaining a written guarantee, hereafter referred to as a "corporate guarantee."

a. The guarantor must demonstrate to the administrative authority that the guarantor meets the requirements in LAC 33:VII.1303.H and must comply with the terms of the corporate guarantee. The corporate guarantee must accompany the items sent to the administrative authority specified in LAC 33:VII.1303.H.2 and 4. The terms of the corporate guarantee must be in an authentic act signed and sworn to by an authorized officer of the corporation before a notary public and must provide that:

i. the guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in LAC 33:VII.1303.H;

ii. the guarantor is the parent corporation of the permit holder or applicant of the solid waste facility or facilities to be covered by the guarantee, and the guarantee extends to certain facilities;

iii. if the permit holder or applicant fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden and accidental occurrences (or both as the case may be), arising from the operation of facilities covered by the corporate guarantee, or fails to pay an amount agreed to in

settlement of the claims arising from or alleged to arise from such injury or damage, the guarantor will do so up to the limits of coverage;

iv. the guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial test criteria, the guarantor shall send within 90 days, by certified mail, notice to the Office of Environmental Services, Waste Permits Division, and to the permit holder or applicant, that he intends to provide alternative financial assurance as specified in this Section, in the name of the permit holder or applicant, and that within 120 days after the end of said fiscal year the guarantor shall establish such financial assurance, unless the permit holder or applicant has done so;

v. the guarantor agrees to notify the Office of Environmental Services, Waste Permits Division, by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;

vi. the guarantor agrees that within 30 days after being notified by the administrative authority of a determination that the guarantor no longer meets the financial test criteria or that he or she is disallowed from continuing as a guarantor of closure or post-closure care, he or she shall establish alternate financial assurance as specified in this Section in the name of the permit holder or applicant unless the permit holder or applicant has done so;

vii. the guarantor agrees to remain bound under the guarantee notwithstanding any or all of the following: amendment or modification of the permit, or any other modification or alteration of an obligation of the permit holder or applicant in accordance with these regulations;

viii. the guarantor agrees to remain bound under the guarantee for as long as the permit holder or applicant must comply with the applicable financial assurance requirements of LAC 33:VII.1303, except that the guarantor may cancel this guarantee by sending notice by certified mail to the administrative authority and the permit holder or applicant. Such cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the permit holder, as evidenced by the return receipts;

ix. the guarantor agrees that if the permit holder or applicant fails to provide alternate financial assurance, as specified in this Section, and obtain written approval of such assurance from the administrative authority within 60 days after the administrative authority receives the guarantor's notice of cancellation, the guarantor shall provide such alternate financial assurance in the name of the permit holder or applicant; and

x. the guarantor expressly waives notice of acceptance of the guarantee by the administrative authority or by the permit holder or applicant; the guarantor also expressly waives notice of amendments or modifications of the facility permit.

b. A corporate guarantee may be used to satisfy the requirements of this Section only if the attorney general(s) or insurance commissioner(s) of the state in which the guarantor is incorporated, and the state in which the facility covered by the guarantee is located, has submitted a written statement to the Office of Environmental Services, Waste

Permits Division, that a corporate guarantee is a legally valid and enforceable obligation in that state.

c. The wording of the corporate guarantee shall be as specified in LAC 33:VII.1399.Appendix J; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

C. The use of a particular financial responsibility mechanism is subject to the approval of the administrative authority.

D. Permit holders of existing facilities must submit, on or before February 20, 1995, financial responsibility documentation that complies with the requirements of this Section. Applicants for permits for new facilities must submit evidence of financial assurance in accordance with this Chapter at least 60 days before the date on which solid waste is first received for processing or disposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2521 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1088 (June 2007).

§1303. Financial Responsibility for Closure and Post-Closure Care

[Formerly §727.A.2]

NOTE: Former §1303 has moved to §1403.

A. Financial Responsibility for Type I, I-A, II, II-A, and III Facilities. Permit holders or applicants of Type I, I-A, II, II-A, and III facilities have the following financial responsibilities for closure and post-closure care.

1. Permit holders or applicants for processing or disposal facilities shall establish and maintain financial assurance for closure and post-closure care.

2. The applicant or permit holder shall submit to the Office of Environmental Services, Waste Permits Division, the estimated closure date and the estimated cost of closure and post-closure care in accordance with the following procedures.

a. The applicant or permit holder must have a written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in these regulations. The estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by the closure plan, and shall be based on the cost of hiring a third party to close the facility in accordance with the closure plan.

b. The applicant or permit holder of a facility subject to post-closure monitoring or maintenance requirements must have a written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the provisions of these regulations. The estimate of post-closure costs is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required and shall be based on the cost of hiring a third party to conduct post-closure activities in accordance with the closure plan.

c. The cost estimates must be adjusted within 30 days after each anniversary of the date on which the first cost estimate was prepared on the basis of either the inflation factor derived from the Annual Implicit Price Deflator for Gross Domestic Product, as published by the U.S. Department of Commerce in its *Survey of Current Business*

or a reestimation of the closure and post-closure costs in accordance with Subparagraphs A.2.a and b of this Section. The permit holder or applicant must revise the cost estimate whenever a change in the closure/post-closure plans increases or decreases the cost of the closure/post-closure plans. The permit holder or applicant must submit a written notice of any such adjustment to the Office of Environmental Services, Waste Permits Division, within 15 days following such adjustment.

d. For trust funds, the first payment must be at least equal to the current closure and post-closure cost estimate, divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each annual anniversary of the date of the first payment. The amount of each subsequent payment must be determined by subtracting the current value of the trust fund from the current closure and post-closure cost estimates and dividing the result by the number of years remaining in the pay-in period. The initial pay-in period is based on the estimated life of the facility.

B. Financial Assurance Mechanisms. The financial assurance mechanism must be one or a combination of the following: a trust fund, a surety bond, a performance bond, a letter of credit, an insurance policy, or a financial test and/or corporate guarantee. The financial assurance mechanism is subject to the approval of the administrative authority and must fulfill the following criteria.

1. Except when a financial test, trust fund, or certificate of insurance is used as the financial assurance mechanism, a standby trust fund naming the administrative authority as beneficiary must be established at the time of the creation of the financial assurance mechanism, into which the proceeds of such mechanism could be transferred should such funds be necessary for either closure or post-closure of the facility, and a signed copy must be furnished to the administrative authority with the mechanism.

2. A permit holder or applicant may use a financial assurance mechanism specified in this Section for more than one facility, if all such facilities are located within Louisiana and are specifically identified in the mechanism.

3. The amount covered by the financial assurance mechanism must equal the total of the current closure and post-closure estimates for each facility covered.

4. When all closure and post-closure requirements have been satisfactorily completed, the administrative authority shall execute an approval to terminate the financial assurance mechanism.

C. Trust Funds. A permit holder or applicant may satisfy the requirements of this Section by establishing a closure trust fund that conforms to the following requirements and submitting an originally signed duplicate of the trust agreement to the Office of Environmental Services, Waste Permits Division.

1. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

2. Trusts must be accomplished in accordance with and subject to the laws of Louisiana. The beneficiary of the trust shall be the administrative authority.

3. Trust-fund earnings may be used to offset required payments into the fund, to pay the fund trustee, or to pay other expenses of the funds, or may be reclaimed by the

permit holder or applicant upon approval of the administrative authority.

4. The trust agreement must be accompanied by an affidavit certifying the authority of the individual signing the trust on behalf of the permit holder or applicant.

5. The permit holder or applicant may accelerate payments into the trust fund or deposit the full amount of the current closure cost estimate at the time the fund is established. The permit holder or applicant must, however, maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in Subparagraph A.2.d of this Section.

6. If the permit holder or applicant establishes a trust fund after having used one or more of the alternate mechanisms specified in this Section, his first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to the specifications of this Subsection.

7. After the pay-in period is completed, whenever the current cost estimate changes, the permit holder must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the permit holder or applicant, within 60 days after the change in the cost estimate, must either deposit an amount into the fund that will make its value at least equal to the amount of the closure/post-closure cost estimate or it must estimate or obtain other financial assurance as specified in this Chapter to cover the difference.

8. After beginning final closure, a permit holder, or any other person authorized by the permit holder to perform closure and/or post-closure, may request reimbursement for closure and/or post-closure expenditures by submitting itemized bills to the Office of Environmental Services, Waste Permits Division. Within 60 days after receiving bills for such activities, the administrative authority will determine whether the closure and/or post-closure expenditures are in accordance with the closure plan or otherwise justified, and, if so, he or she shall instruct the trustee to make reimbursement in such amounts as the administrative authority specifies in writing. If the administrative authority has reason to believe that the cost of closure and/or post-closure will be significantly greater than the value of the trust fund, he may withhold reimbursement for such amounts as he deems prudent until he determines that the permit holder is no longer required to maintain financial assurance.

9. The wording of the trust agreement shall be identical to the wording in LAC 33:VII.1399.Appendix D, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted. The trust agreement shall be accompanied by a formal certification of acknowledgement.

D. Surety Bonds. A permit holder or applicant may satisfy the requirements of this Section by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Environmental Services, Waste Permits Division.

1. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury and approved by the administrative authority.

2. The permit holder or applicant who uses a surety bond to satisfy the requirements of this Section must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the administrative authority. The wording of the standby trust fund shall be as specified in LAC 33:VII.1399.Appendix D; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

3. The bond must guarantee that the operator will:

a. fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

b. fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure or post-closure is issued; or

c. provide alternate financial assurance as specified in this Section, and obtain the administrative authority's written approval of the assurance provided, within 90 days after receipt by both the permit holder and the administrative authority of a notice of cancellation of the bond from the surety.

4. Under the terms of the bond, the surety will become liable on the bond obligation when the permit holder fails to perform as guaranteed by the bond.

5. The penal sum of the bond must be at least equal to the current closure and post-closure cost estimates.

6. Whenever the current cost estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure estimate and submit evidence of such increase to the Office of Environmental Services, Waste Permits Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the administrative authority.

7. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the administrative authority. Cancellation may not occur, however, before 120 days have elapsed, beginning on the date that both the permit holder and the administrative authority receive the notice of cancellation, as evidenced by the return receipts.

8. The wording of the surety bond guaranteeing payment into a standby trust fund shall be identical to the wording in LAC 33:VII.1399.Appendix E, except that the instructions in brackets are to be replaced with the relevant information and the brackets delete.

E. Performance Bonds. A permit holder or applicant may satisfy the requirements of this Section by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Environmental Services, Waste Permits Division.

1. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury and approved by the administrative authority.

2. The permit holder or applicant who uses a surety bond to satisfy the requirements of this Section must also provide to the administrative authority evidence of establishment of a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the administrative authority. The wording of the standby trust fund shall be as specified in LAC 33:VII.1399.Appendix D; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

3. The bond must guarantee that the permit holder or applicant will:

a. perform final closure and post-closure in accordance with the closure plan and other requirements of the permit for the facility whenever required to do so; or

b. provide alternate financial assurance as specified in this Section and obtain the administrative authority's written approval of the assurance provided within 90 days after the date both the permit holder and the administrative authority receive notice of cancellation of the bond from the surety.

4. Under the terms of the bond, the surety will become liable on the bond obligation when the permit holder fails to perform as guaranteed by the bond. Following a determination by the administrative authority that the permit holder has failed to perform final closure and post-closure in accordance with the closure plan and other permit requirements when required to do so, under the terms of the bond the surety will perform final closure and post-closure as guaranteed by the bond or will deposit the amount of the penal sum into the standby trust fund.

5. The penal sum of the bond must be at least equal to the current closure and post-closure cost estimates.

6. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services, Waste Permits Division, or obtain other financial assurance as specified in this Section. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate after written approval of the administrative authority.

7. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the Office of Environmental Services, Waste Permits Division. Cancellation may not occur before 120 days have elapsed beginning on the date that both the permit holder and the administrative authority receive the notice of cancellation, as evidenced by the return receipts.

8. The wording of the performance bond shall be identical to the wording in LAC 33:VII.1399.Appendix F, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

F. Letter of Credit. A permit holder or applicant may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the following requirements and submitting the letter to the Office of Environmental Services, Waste Permits Division.

1. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

2. A permit holder or applicant who uses a letter of credit to satisfy the requirements of this Section must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the administrative authority will be deposited by the issuing institution directly into the standby trust fund. The wording of the standby trust fund shall be as specified in LAC 33:VII.1399.Appendix D; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

3. The letter of credit must be accompanied by a letter from the permit holder or applicant referring to the letter of credit by number, issuing institution, and date, and providing the following information:

a. agency interest number;

b. solid waste identification number;

c. site name;

d. facility name;

e. facility permit number; and

f. the amount of funds assured for liability coverage of the facility by the letter of credit.

4. The letter of credit must be irrevocable and issued for a period of at least one year, unless, at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and the Office of Environmental Services, Waste Permits Division, by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permit holder and the administrative authority receive the notice, as evidenced by the return receipts.

5. The letter of credit must be issued in an amount at least equal to the current closure and post-closure cost estimates.

6. Whenever the current cost estimates increase to an amount greater than the amount of the credit, the permit holder, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services, Waste Permits Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure and post-closure cost estimates upon written approval of the administrative authority.

7. Following a determination by the administrative authority that the permit holder has failed to perform final closure or post-closure in accordance with the closure plan and other permit requirements when required to do so, the administrative authority may draw on the letter of credit.

8. The wording of the letter of credit shall be identical to the wording in LAC 33:VII.1399.Appendix G, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

G. Insurance. A permit holder or applicant may satisfy the requirements of this Section by obtaining insurance that

conforms to the following requirements and submitting a certificate of such insurance to the Office of Environmental Services, Waste Permits Division.

1. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess-lines or surplus-lines insurer in one or more states, and authorized to transact insurance business in Louisiana.

2. The insurance policy must be issued for a face amount at least equal to the current closure and post-closure cost estimates.

3. The term *face amount* means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

4. The insurance policy must guarantee that funds will be available to close the facility and provide post-closure care once final closure occurs. The policy must also guarantee that, once final closure begins, the insurer will be responsible for paying out funds up to an amount equal to the face amount of the policy, upon the direction of the administrative authority, to such party or parties as the administrative authority specifies.

5. After beginning final closure, a permit holder or any other person authorized by the permit holder to perform closure or post-closure may request reimbursement for closure or post-closure expenditures by submitting itemized bills to the Office of Environmental Services, Waste Permits Division. Within 60 days after receiving such bills, the administrative authority will determine whether the expenditures are in accordance with the closure plan or otherwise justified, and if so, he or she shall instruct the insurer to make reimbursement in such amounts as the administrative authority specifies in writing.

6. The permit holder must maintain the policy in full force and effect until the administrative authority consents to termination of the policy by the permit holder.

7. Each policy must contain a provision allowing assignment of the policy to a successor permit holder. Such assignment may be conditional upon consent of the insurer, provided consent is not unreasonably refused.

8. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the permit holder and the Office of Environmental Services, Waste Permits Division. Cancellation, termination, or failure to renew may not occur, however, before 120 days have elapsed, beginning on the date that both the administrative authority and the permit holder receive notice of cancellation, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur, and the policy will remain in full force and effect in the event that, on or before the date of expiration:

a. the administrative authority deems the facility to be abandoned;

b. the permit is terminated or revoked or a new permit is denied;

c. closure and/or post-closure is ordered;

d. the permit holder is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

e. the premium due is paid.

9. Whenever the current cost estimate increases to an amount greater than the face amount of the policy, the permit holder, within 60 days after the increase, must either increase the face amount to at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services, Waste Permits Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current closure and post-closure cost estimates following written approval by the administrative authority.

10. The wording of the certificate of insurance shall be identical to the wording in LAC 33:VII.1399.Appendix H, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

H. Financial Test. A permit holder, applicant, or parent corporation of the permit holder or applicant, which will be responsible for the financial obligations, may satisfy the requirements of this Section by demonstrating that he or she passes a financial test as specified in this Subsection. The assets of the parent corporation of the applicant or permit holder shall not be used to determine whether the applicant or permit holder satisfies the financial test, unless the parent corporation has supplied a corporate guarantee as outlined in LAC 33:VII.1301.B.4.

1. To pass this test, the permit holder, applicant, or parent corporation of the permit holder or applicant, must meet the criteria of either of the following provisions.

a. The permit holder, applicant, or parent corporation of the permit holder or applicant must have:

i. tangible net worth of at least six times the sum of the current closure and post-closure cost estimates to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test;

ii. tangible net worth of at least \$10 million; and

iii. assets in the United States amounting to either at least 90 percent of his or her total assets, or at least six times the sum of the current closure and post-closure cost estimates, to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test.

b. The permit holder, applicant, or parent corporation of the permit holder or applicant must have:

i. a current rating for his or her most recent bond issuance of AAA, AA, A, or BBB, as issued by *Standard and Poor's*, or Aaa, Aa, or Baa, as issued by *Moody's*;

ii. tangible net worth of at least \$10 million; and

iii. assets in the United States amounting to either 90 percent of his or her total assets or at least six times the sum of the current closure and post-closure cost estimates, to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test.

2. To demonstrate that he or she meets this test, the permit holder, applicant, or parent corporation of the permit holder or applicant must submit the following three items to the Office of Environmental Services, Waste Permits Division:

a. a letter signed by the chief financial officer of the permit holder, applicant, or parent corporation demonstrating and certifying satisfaction of the criteria in Paragraph H.1 of this Section and including the information required by Paragraph H.4 of this Section. If the financial test is provided to demonstrate both assurance for closure and/or post-closure care and liability coverage, a single letter to cover both forms of financial responsibility is required;

b. a copy of the independent certified public accountant's report on the financial statements of the permit holder, applicant, or parent corporation of the permit holder or applicant for the latest completed fiscal year; and

c. a special report from the independent CPA to the permit holder, applicant, or parent corporation of the permit holder or applicant. The special report shall contain the following certification.

"I have computed the data specified by the chief financial officer as having been derived from the independently audited, year-end financial statements with the amounts for the latest fiscal year in such financial statements, and in connection with that procedure, no matters came to my attention that caused me to believe that the specified data should be adjusted."

3. The administrative authority may disallow use of this test on the basis of the opinion expressed by the independent CPA in his report on qualifications based on the financial statements. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The administrative authority will evaluate other qualifications on an individual basis. The administrative authority may disallow the use of this test on the basis of the accessibility of the assets of the parent corporation (corporate guarantor), permit holder, or applicant. The permit holder, applicant, or parent corporation must provide evidence of insurance for the entire amount of required liability coverage, as specified in this Section, within 30 days after notification of disallowance.

4. The permit holder, applicant, or parent corporation (if a corporate guarantor) of the permit holder or applicant shall provide to the Office of Environmental Services, Waste Permits Division, a letter from the chief financial officer, the wording of which shall be identical to the wording in LAC 33:VII.1399.Appendix I, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted. The letter shall certify the following information:

a. a list of facilities, whether in Louisiana or not, owned or operated by the permit holder, applicant for a standard permit, or parent corporation of the permit holder or applicant, for which financial assurance for liability coverage is demonstrated through the use of financial tests, including the amount of liability coverage;

b. a list of facilities, whether in Louisiana or not, owned or operated by the permit holder, applicant for a standard permit, or parent corporation of the permit holder or applicant, for which financial assurance for the closure or post-closure care is demonstrated through the use of a financial test or self-insurance by the permit holder or applicant, including the cost estimates for the closure and post-closure care of each facility;

c. a list of facilities, whether in Louisiana or not, owned or operated by the parent corporation and any subsidiaries of the parent corporation for which financial assurance for liability coverage or closure and/or post-

closure care is demonstrated through the financial test and/or corporate guarantee or through use of self-insurance, including the current cost estimate for the closure or post-closure care for each facility and the amount of annual aggregate liability coverage for each facility; and

d. a list of facilities, whether in Louisiana or not, for which financial assurance for closure or post-closure care is not demonstrated through the financial test, self-insurance, or other substantially equivalent state mechanisms, including the estimated cost of closure and post-closure of such facilities.

5. For the purposes of this Section, the phrase *tangible net worth* shall mean the tangible assets that remain after liabilities have been deducted; such assets would not include intangibles such as good will and rights to patents or royalties.

6. The phrase *current closure and post-closure cost estimates*, as used in Paragraph H.1 of this Section, includes the cost estimates required to be shown in Clause H.1.a.i of this Section.

7. After initial submission of the items specified in Paragraph H.2 of this Section, the permit holder, applicant, or parent corporation of the permit holder or applicant must send updated information to the Office of Environmental Services, Waste Permits Division, within 90 days after the close of each succeeding fiscal year. This information must include all three items specified in Paragraph H.2 and the adjusted item specified in Subparagraph A.2.c of this Section.

8. The administrative authority may, on the basis of a reasonable belief that the permit holder, applicant, or parent corporation of the permit holder or applicant may no longer meet the requirements of this Subsection, require reports of financial condition at any time in addition to those specified in Paragraph H.2 of this Section. If the administrative authority finds, on the basis of such reports or other information, that the permit holder, applicant, or parent corporation of the permit holder or applicant no longer meets the requirements of Paragraph H.2 of this Section, the permit holder or applicant, or parent corporation of the permit holder or applicant must provide alternate financial assurance as specified in this Section within 30 days after notification of such a finding.

9. A permit holder or applicant may meet the requirements of this Subsection for closure and/or post-closure by obtaining a written guarantee, hereafter referred to as a "corporate guarantee." The guarantor must be the parent corporation of the permit holder or applicant. The guarantor must meet the requirements and submit all information required for permit holders or applicants in Paragraphs H.1-8 of this Section and must comply with the terms of the corporate guarantee. The corporate guarantee must accompany the items sent to the administrative authority specified in Paragraphs H.2 and 4 of this Section. The wording of the corporate guarantee must be identical to the wording in LAC 33:VII.1399.Appendix J, except that instructions in brackets are to be replaced with the relevant information and the brackets removed. The terms of the corporate guarantee must be in an authentic act signed and sworn by an authorized officer of the corporation before a notary public and must provide that:

- a. the guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in this Section;
- b. the guarantor is the parent corporation of the permit holder or applicant of the solid waste management facility or facilities to be covered by the guarantee, and the guarantee extends to certain facilities;
- c. *closure plans*, as used in the guarantee, refers to the plans maintained as required by the Louisiana solid waste rules and regulations for the closure and post-closure care of facilities, as identified in the guarantee;
- d. for value received from the permit holder or applicant, the guarantor guarantees to the Louisiana Department of Environmental Quality that the permit holder or applicant will perform closure, post-closure care, or closure and post-closure care of the facility or facilities listed in the guarantee, in accordance with the closure plan and other permit or regulatory requirements whenever required to do so. In the event that the permit holder or applicant fails to perform as specified in the closure plan, the guarantor shall do so or establish a trust fund as specified in Subparagraph A.2.d of this Section, in the name of the permit holder or applicant, in the amount of the current closure or post-closure cost estimates or as specified in Paragraph A.2 of this Section;
- e. the guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial test criteria, the guarantor shall send within 90 days after the end of the fiscal year, by certified mail, notice to the Office of Environmental Services, Waste Permits Division, and to the permit holder or applicant, that he intends to provide alternative financial assurance as specified in this Section, in the name of the permit holder or applicant, and that within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless the permit holder or applicant has done so;
- f. the guarantor agrees to notify the Office of Environmental Services, Waste Permits Division, by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;
- g. the guarantor agrees that within 30 days after being notified by the administrative authority of a determination that the guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure or post-closure care, he shall establish alternate financial assurance as specified in this Section in the name of the permit holder or applicant, unless the permit holder or applicant has done so;
- h. the guarantor agrees to remain bound under the guarantee, notwithstanding any or all of the following: amendment or modification of the closure plan, amendment or modification of the permit, extension or reduction of the time of performance of closure or post-closure, or any other modification or alteration of an obligation of the permit holder or applicant in accordance with these regulations;
- i. the guarantor agrees to remain bound under the guarantee for as long as the permit holder must comply with the applicable financial assurance requirements of this Section, except that the guarantor may cancel this guarantee

by sending notice by certified mail to the Office of Environmental Services, Waste Permits Division, and the permit holder or applicant. The cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the permit holder or applicant, as evidenced by the return receipts;

- j. the guarantor agrees that if the permit holder or applicant fails to provide alternative financial assurance as specified in this Section, and to obtain written approval of such assurance from the administrative authority within 60 days after the administrative authority receives the guarantor's notice of cancellation, the guarantor shall provide such alternate financial assurance in the name of the owner or operator; and

- k. the guarantor expressly waives notice of acceptance of the guarantee by the administrative authority or by the permit holder. The guarantor also expressly waives notice of amendments or modifications of the closure plan and of amendments or modifications of the facility permit.

I. Local Government Financial Test. An owner or operator that satisfies the requirements of Paragraphs I.1-3 of this Section may demonstrate financial assurance up to the amount specified in Paragraph I.4 of this Section.

1. Financial Component

- a. The owner or operator must satisfy the following conditions, as applicable.

- i. If the owner or operator has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, it must have a current rating of Aaa, Aa, A, or Baa, as issued by *Moody's*, or AAA, AA, A, or BBB, as issued by *Standard and Poor's*, on all such general obligation bonds.

- ii. The owner or operator must satisfy the ratio of cash plus marketable securities to total expenditures being greater than or equal to 0.05 and the ratio of annual debt service to total expenditures less than or equal to 0.20 based on the owner or operator's most recent audited annual financial statement.

- b. The owner or operator must prepare its financial statements in conformity with *Generally Accepted Accounting Principles* for governments and have its financial statements audited by an independent certified public accountant (or appropriate state agency).

- c. A local government is not eligible to assure its obligations under this Subsection if it:

- i. is currently in default on any outstanding general obligation bonds;

- ii. has any outstanding general obligation bonds rated lower than Baa as issued by *Moody's* or BBB as issued by *Standard and Poor's*;

- iii. operated at a deficit equal to five percent or more of total annual revenue in each of the past two fiscal years; or

- iv. receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant (or appropriate state agency) auditing its financial statement as required under Subparagraph I.1.b of this Section. The administrative authority may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the administrative authority deems the qualification insufficient to warrant disallowance of use of the test.

d. The following terms used in this Subsection are defined as follows:

i. *Deficit*—total annual revenues minus total annual expenditures.

ii. *Total Revenues*—revenues from all taxes and fees, not including the proceeds from borrowing or asset sales, excluding revenue from funds managed by local government on behalf of a specific third party.

iii. *Total Expenditures*—all expenditures, excluding capital outlays and debt repayment.

iv. *Cash Plus Marketable Securities*—all the cash plus marketable securities held by the local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

v. *Debt Service*—the amount of principal and interest due on a loan in a given time period, typically the current year.

2. Public Notice Component. The local government owner or operator must place a reference to the closure and post-closure care costs assured through the financial test into its next comprehensive annual financial report (CAFR) after the effective date of this Section or prior to the initial receipt of waste at the facility, whichever is later. Disclosure must include the nature and source of closure and post-closure care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date, and the estimated landfill life in years. A reference to corrective action costs must be placed in the CAFR not later than 120 days after the corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.805.F. For the first year the financial test is used to assure costs at a particular facility, the reference may be placed in the operating record until issuance of the next available CAFR if timing does not permit the reference to be incorporated into the most recently issued CAFR or budget. For closure and post-closure costs, conformance with *Governmental Accounting Standards Board Statement 18* assures compliance with this public notice component.

3. Recordkeeping and Reporting Requirements

a. The local government owner or operator must place the following items in the facility's operating record:

i. a letter signed by the local government's chief financial officer that lists all the current cost estimates covered by a financial test, as described in Paragraph I.4 of this Section. It must provide evidence that the local government meets the conditions of Subparagraphs I.1.a, b, and c of this Section, and certify that the local government meets the conditions of Subparagraphs I.1.a, b, and c and Paragraphs I.2 and 4 of this Section;

ii. the local government's independently audited year-end financial statements for the latest fiscal year (except for local governments where audits are required every two years, unaudited statements, which may be used in years when audits are not required), including the unqualified opinion of the auditor who must be an independent certified public accountant or an appropriate state agency that conducts equivalent comprehensive audits;

iii. a report to the local government from the local government's independent certified public accountant or the

appropriate state agency based on performing an agreed upon procedures engagement relative to the financial ratios required by Clause I.1.a.ii of this Section, if applicable, and the requirements of Subparagraph I.1.b and Clauses I.1.c.iii and iv of this Section. The certified public accountant or state agency's report shall state the procedures performed and the certified public accountant or state agency's findings; and

iv. a copy of the comprehensive annual financial report (CAFR) used to comply with Paragraph I.2 of this Section (certification that the requirements of *Governmental Accounting Standards Board Statement 18* have been met).

b. The items required in Subparagraph I.3.a of this Section must be placed in the facility operating record as follows:

i. in the case of closure and post-closure care, either before the effective date of this Section, which is April 9, 1997, or prior to the initial receipt of waste at the facility, whichever is later; or

ii. in the case of corrective action, not later than 120 days after the corrective action remedy is selected in accordance with the requirements of LAC 33:VII.805.F.

c. After the initial placement of the items in the facility's operating record, the local government owner or operator must update the information and place the updated information in the operating record within 180 days following the close of the owner or operator's fiscal year.

d. The local government owner or operator is no longer required to meet the requirements of Paragraph I.3 of this Section when:

i. the owner or operator substitutes alternate financial assurance, as specified in this Section; or

ii. the owner or operator is released from the requirements of this Chapter in accordance with LAC 33:VII.1301.A or Subsection A of this Section.

e. A local government must satisfy the requirements of the financial test at the close of each fiscal year. If the local government owner or operator no longer meets the requirements of the local government financial test, it must, within 210 days following the close of the owner or operator's fiscal year, obtain alternative financial assurance that meets the requirements of this Section, place the required submissions for that assurance in the operating record, and notify the Office of Environmental Services, Waste Permits Division, that the owner or operator no longer meets the criteria of the financial test and that alternate assurance has been obtained.

f. The administrative authority, based on a reasonable belief that the local government owner or operator may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government at any time. If the administrative authority finds, on the basis of such reports or other information, that the owner or operator no longer meets the local government financial test, the local government must provide alternate financial assurance in accordance with this Section.

4. Calculation of Costs to be Assured. The portion of the closure, post-closure, and corrective action costs for which an owner or operator can assure under this Subsection is determined as follows.

a. If the local government owner or operator does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43 percent of the local government's total annual revenue.

b. If the local government assures other environmental obligations through a financial test, including those associated with UIC facilities under 40 CFR 144.62, petroleum underground storage tank facilities under 40 CFR Part 280, PCB storage facilities under 40 CFR Part 761, and hazardous waste treatment, storage, and disposal facilities under 40 CFR Parts 264 and 265, or corresponding state programs, it must add those costs to the closure, post-closure, and corrective action costs it seeks to assure under this Subsection. The total that may be assured must not exceed 43 percent of the local government's total annual revenue.

c. The owner or operator must obtain an alternate financial assurance instrument for those costs that exceed the limits set in Subparagraphs I.4.a and b of this Section.

J. Local Government Guarantee. An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action, as required by LAC 33:VII.1301 and this Section, by obtaining a written guarantee provided by a local government. The guarantor must meet the requirements of the local government financial test in Subsection I of this Section, and must comply with the terms of a written guarantee.

1. Terms of the Written Guarantee. The guarantee must be effective before the initial receipt of waste or before the effective date of this Section, whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.805.F. The guarantee must provide that:

a. if the owner or operator fails to perform closure, post-closure care, and/or corrective action of a facility covered by the guarantee, the guarantor will:

i. perform, or pay a third party to perform closure, post-closure care, and/or corrective action as required; or

ii. establish a fully funded trust fund as specified in Subsection C of this Section in the name of the owner or operator;

b. the guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Office of Environmental Services, Waste Permits Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts; and

c. if a guarantee is canceled, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the administrative authority, obtain alternate financial assurance, place evidence of that alternate financial assurance in the facility operating record, and notify the Office of Environmental Services, Waste Permits Division. If the owner or operator fails to provide alternate financial assurance within the 90-day period, then the owner or operator must provide that

alternate assurance within 120 days following the guarantor's notice of cancellation, place evidence of the alternate assurance in the facility operating record, and notify the Office of Environmental Services, Waste Permits Division.

2. Recordkeeping and Reporting

a. The owner or operator must place a certified copy of the guarantee, along with the items required under Paragraph I.3 of this Section, into the facility's operating record before the initial receipt of waste or before the effective date of this Section, whichever is later, in the case of closure or post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.805.F.

b. The owner or operator is no longer required to maintain the items specified in Paragraph J.2 of this Section when:

i. the owner or operator substitutes alternate financial assurance as specified in this Section; or

ii. the owner or operator is released from the requirements of this Section in accordance with this Chapter.

c. If a local government guarantor no longer meets the requirements of Subsection I of this Section, the owner or operator must, within 90 days, obtain alternate assurance, place evidence of the alternate assurance in the facility operating record, and notify the Office of Environmental Services, Waste Permits Division. If the owner or operator fails to obtain alternate financial assurance within that 90-day period, the guarantor must provide that alternate assurance within the next 30 days.

K. Use of Multiple Mechanisms. An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action, in accordance with this Chapter, by establishing more than one financial mechanism per facility, except that mechanisms guaranteeing performance, rather than payment, may not be combined with other instruments. The mechanisms must be as specified in Subsections C-H of this Section, except that financial assurance for an amount at least equal to the current cost estimate for closure, post-closure care, and/or corrective action may be provided by a combination of mechanisms, rather than a single mechanism.

L. Discounting. The administrative authority may allow discounting of closure and post-closure cost estimates in Subsection A of this Section, and/or corrective action costs in LAC 33:VII.1301.A, up to the rate of return for essentially risk-free investments, net of inflation, under the following conditions:

1. the administrative authority determines that cost estimates are complete and accurate and the owner or operator has submitted a statement from a professional engineer to the Office of Environmental Services, Waste Permits Division, so stating;

2. the state finds the facility in compliance with applicable and appropriate permit conditions;

3. the administrative authority determines that the closure date is certain and the owner or operator certifies that there are no foreseeable factors that will change the estimate of site life; and

4. discounted cost estimates are adjusted annually to reflect inflation and years of remaining life.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2522 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1090 (June 2007).

§1305. Financial Responsibility for Corrective Action for Type II Landfills [Formerly §727.B]

NOTE: Former §1305 has moved to §1405.

A. A permit holder of a Type II landfill required to undertake a corrective action program under LAC 33:VII.805 must provide to the Office of Environmental Services, Waste Permits Division, a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the program required under LAC 33:VII.805. The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period.

1. The permit holder must provide an annual adjustment of the estimate for inflation to the Office of Environmental Services, Waste Permits Division, until the corrective action program is completed in accordance with LAC 33:VII.805.

2. The permit holder must provide an increased corrective action cost estimate to the Office of Environmental Services, Waste Permits Division, and the amount of financial assurance provided under Subsection B of this Section if changes in the corrective action program or landfill conditions increase the maximum costs of corrective action.

3. Subject to approval of the administrative authority, the permit holder shall provide a reduced corrective action cost estimate to the Office of Environmental Services, Waste Permits Division, and the amount of financial assurance provided under Subsection B of this Section if the cost estimate exceeds the maximum remaining costs of corrective action. The permit holder must provide the Office of Environmental Services, Waste Permits Division, justification for the reduction of the corrective action cost estimate and the revised amount of financial assurance.

B. The permit holder of each Type II landfill required to undertake a corrective action program under LAC 33:VII.805 must establish, in a manner in accordance with LAC 33:VII.1303, financial assurance for the most recent corrective action program. The financial assurance must be provided within 120 days after the selection of the corrective action remedy in LAC 33:VII.805.F. The permit holder must provide continuous coverage for corrective action until released from financial assurance requirements for corrective action by demonstrating compliance with LAC 33:VII.805.G.8-10. For the purpose of corrective action financial assurance only the words "corrective action" shall be substituted for the words "closure" or "post-closure" throughout this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2524 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1098 (June 2007).

§1399. Financial Documents—Appendices A, B, C, D, E, F, G, H, I, and J [Formerly within §727]

A. Appendix A

**SOLID WASTE FACILITY
LIABILITY ENDORSEMENT**

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Waste Permits Division
RE: [Facility name, agency interest number, and permit number]

Dear Sir:

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering bodily injury and property damage in connection with [name of the insured, which must be the permit holder, the applicant, or the operator. (Note: The operator will provide the liability-insurance documentation only when the permit holder/applicant is a public governing body and the public governing body is not the operator.)] The insured's obligation to demonstrate financial responsibility is required in accordance with LAC 33:VII.1301. The coverage applies at [list the facility name, site name, agency interest number, site identification number, facility permit number, and facility address] for sudden and accidental occurrences. The limits of liability are [insert amount of coverage] per each occurrence and [insert amount of coverage] annual aggregate, per site, exclusive of legal-defense costs.

2. The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions of the policy inconsistent with Subclauses (a) through (e) below are hereby amended to conform with Subclauses (a) through (e) below:

(a). Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy to which this endorsement is attached.

(b). The insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in LAC 33:VII.1301.B.2, 3, or 4.

(c). Whenever requested by the administrative authority, the insurer agrees to furnish to the administrative authority a signed duplicate original of the policy and all endorsements.

(d). Cancellation of this endorsement, whether by the insurer or the insured, will be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the administrative authority.

(e). Any other termination of this endorsement will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the administrative authority.

3. Attached is the endorsement, which forms part of the policy [policy number] issued by [name of insurer], herein called the insurer, of [address of the insurer] to [name of the insured] of [address of the insured], this [date]. The effective date of said policy is [date].

4. I hereby certify that the wording of this endorsement is identical to the wording specified in LAC 33:VII.1399.Appendix A, effective on the date first written above and that insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana.

[Signature of authorized representative of insurer]
[Typed name of authorized representative of insurer]
[Title of authorized representative of insurer]
[Address of authorized representative of insurer]

B. Appendix B

SOLID WASTE FACILITY CERTIFICATE OF LIABILITY INSURANCE

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Waste Permits Division
RE: [Facility name, agency interest number, and permit
number]

Dear Sir:

1. [Name of insurer], the "insurer," of [address of insurer] hereby certifies that it has issued liability insurance covering bodily injury and property damage to [name of insured, which must be either the permit holder or applicant of the facility], the "insured," of [address of insured] in connection with the insured's obligation to demonstrate financial responsibility under LAC 33:VII.1301. The coverage applies at [list facility name, site name, agency interest number, site identification number, facility permit number, and facility address] for sudden and accidental occurrences. The limits of liability are [insert amount of coverage] per each occurrence and [insert amount of coverage] annual aggregate, per site, exclusive of legal-defense costs. The coverage is provided under policy number [policy number], issued on [date]. The effective date of said policy is [date].

2. The insurer further certifies the following with respect to the insurance described in Paragraph 1:

(a). Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy.

(b). The insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated, as specified in LAC 33:VII.1301.B.2, 3, or 4.

(c). Whenever requested by the administrative authority, the insurer agrees to furnish to him a signed duplicate original of the policy and all endorsements.

(d). Cancellation of the insurance, whether by the insurer or the insured, will be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the administrative authority.

(e). Any other termination of the insurance will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the administrative authority.

3. I hereby certify that the wording of this certificate is identical to the wording specified in LAC 33:VII.1399.Appendix B as such regulations were constituted on the date first written above, and that the insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana.

[Signature of authorized representative of insurer]
[Typed name of authorized representative of insurer]
[Title of authorized representative of insurer]
[Address of authorized representative of insurer]

C. Appendix C

SOLID WASTE FACILITY IRREVOCABLE LETTER OF CREDIT (For Liability Coverage During Operation)

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Waste Permits Division
RE: [Facility name, agency interest number, and permit
number]

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No. [number] at the request and for the account of [permit holder's or applicant's name and address] for its [list facility name, site name, agency interest number, site identification number, and facility permit number] at

[location], Louisiana, in favor of any governmental body, person, or other entity for any sum or sums up to the aggregate amount of U.S. dollars \$[amount] upon presentation of:

1. A final judgment issued by a competent court of law in favor of a governmental body, person, or other entity and against [permit holder's or applicant's name] for sudden and accidental occurrences for claims arising out of injury to persons or property due to the operation of the solid waste site at the [name of permit holder or applicant] at [site location] as set forth in LAC 33:VII.1301.

2. A sight draft bearing reference to the Letter of Credit No. [number] drawn by the governmental body, person, or other entity, in whose favor the judgment has been rendered as evidenced by documentary requirement in Paragraph 1.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least 1 year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder/applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"], shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:VII.1399.Appendix C, effective on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution(s)]
[Date]

D. Appendix D

SOLID WASTE FACILITY TRUST AGREEMENT/STANDBY TRUST AGREEMENT [Facility name, agency interest number, and permit number]

This Trust Agreement, the "Agreement," is entered into as of [date] by and between [name of permit holder or applicant], a [name of state] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the state of" or "a national bank" or "a state bank"], the "Trustee."

WHEREAS, the Department of Environmental Quality of the State of Louisiana, an agency of the state of Louisiana, has established certain regulations applicable to the Grantor, requiring that a permit holder or applicant for a permit of a solid waste processing or disposal facility shall provide assurance that funds will be available when needed for [closure and/or post-closure] care of the facility;

WHEREAS, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facility identified herein;

WHEREAS, the Grantor, acting through its duly authorized officers, has selected [the Trustee] to be the trustee under this Agreement, and [the Trustee] is willing to act as trustee.

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

SECTION 1. DEFINITIONS

As used in this Agreement:

(a). The term Grantor means the permit holder or applicant who enters into this Agreement and any successors or assigns of the Grantor.

(b). The term Trustee means the Trustee who enters into this Agreement and any successor trustee.

(c). The term Secretary means the Secretary of the Louisiana Department of Environmental Quality.

(d). The term Administrative Authority means the Secretary or his designee or the appropriate assistant secretary or his designee.

SECTION 2. IDENTIFICATION OF FACILITIES AND COST ESTIMATES

This Agreement pertains to the facilities and cost estimates identified on attached Schedule A. [On Schedule A, list the site identification number, site name, facility name, facility permit number, and the annual aggregate amount of liability coverage or current closure and/or post-closure cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement.]

SECTION 3. ESTABLISHMENT OF FUND

The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Louisiana Department of Environmental Quality. The Grantor and the Trustee intend that no third party shall have access to the Fund, except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. [Note: Standby Trust Agreements need not be funded at the time of execution. In the case of Standby Trust Agreements, Schedule B should be blank except for a statement that the Agreement is not presently funded, but shall be funded by the financial assurance document used by the Grantor in accordance with the terms of that document.] Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, in trust, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the administrative authority.

SECTION 4. PAYMENT FOR CLOSURE AND/OR POST-CLOSURE CARE OR LIABILITY COVERAGE

The Trustee shall make payments from the Fund as the administrative authority shall direct, in writing, to provide for the payment of the costs of [liability claims, closure and/or post-closure] care of the facility covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the administrative authority from the Fund for [liability claims, closure and/or post-closure] expenditures in such amounts as the administrative authority shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the administrative authority specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

SECTION 5. PAYMENTS COMPRISED BY THE FUND

Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

SECTION 6. TRUSTEE MANAGEMENT

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines, which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing that persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and with like aims, except that:

(a). Securities or other obligations of the Grantor, or any owner of the [facility or facilities] or any of their affiliates, as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government;

(b). The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(c). The Trustee is authorized to hold cash awaiting investment or distribution, uninvested for a reasonable time and without liability for the payment of interest thereon.

SECTION 7. COMMINGLING AND INVESTMENT

The Trustee is expressly authorized, at its discretion:

(a). To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b). To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1, et seq., including one which may be created, managed, or underwritten, or one to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares at its discretion.

SECTION 8. EXPRESS POWERS OF TRUSTEE

Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a). To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b). To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c). To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all securities are part of the Fund;

(d). To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

(e). To compromise or otherwise adjust all claims in favor of, or against, the Fund.

SECTION 9. TAXES AND EXPENSES

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and other proper charges and disbursements of the Trustee, shall be paid from the Fund.

SECTION 10. ANNUAL VALUATION

The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the administrative authority a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee, within 90 days after the statement has been furnished to the

Grantor and the administrative authority, shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

SECTION 11. ADVICE OF COUNSEL

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

SECTION 12. TRUSTEE COMPENSATION

The Trustee shall be entitled to reasonable compensation for its services, as agreed upon in writing from time to time with the Grantor.

SECTION 13. SUCCESSOR TRUSTEE

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall, in writing, specify to the Grantor, the administrative authority, and the present Trustee, by certified mail 10 days before such change becomes effective, the date on which it assumes administration of the trust. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

SECTION 14. INSTRUCTIONS TO THE TRUSTEE

All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by the persons designated in the attached Exhibit A or such other persons as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the administrative authority to the Trustee shall be in writing and signed by the administrative authority. The Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or termination of the authority of any person to act on behalf of the Grantor or administrative authority hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or administrative authority, except as provided for herein.

SECTION 15. NOTICE OF NONPAYMENT

The Trustee shall notify the Grantor and the administrative authority, by certified mail, within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

SECTION 16. AMENDMENT OF AGREEMENT

This Agreement may be amended by an instrument, in writing, executed by the Grantor, the Trustee, and the administrative authority, or by the Trustee and the administrative authority, if the Grantor ceases to exist.

SECTION 17. IRREVOCABILITY AND TERMINATION

Subject to the right of the parties to amend this Agreement, as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the administrative authority, or by the Trustee and the administrative authority, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

SECTION 18. IMMUNITY AND INDEMNIFICATION

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any direction by the Grantor or the administrative authority issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all reasonable expenses incurred in its defense in the event that the Grantor fails to provide such defense.

SECTION 19. CHOICE OF LAW

This Agreement shall be administered, construed, and enforced according to the laws of the state of Louisiana.

SECTION 20. INTERPRETATION

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers duly authorized [and their corporate seals to be hereunto affixed] and attested to as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in LAC 33:VII.1399.Appendix D, on the date first written above.

WITNESSES:

GRANTOR:

Its: _____
[Seal]

By: _____

TRUSTEE:

By: _____
Its: _____
[Seal]

THUS DONE AND PASSED in my office in _____, on the _____ day of _____, 20 _____, in the presence of _____ and _____, competent witnesses, who hereunto sign their names with the said appearers and me, Notary, after reading the whole.

Notary Public

[Example of Formal Certification of Acknowledgement]

STATE OF LOUISIANA

PARISH OF _____

BE IT KNOWN, that on this _____ day of _____, 20 __, before me, the undersigned Notary Public, duly commissioned and qualified within the State and Parish aforesaid, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared _____, to me well known, who declared and acknowledged that he had signed and executed the foregoing instrument as his act and deed, and as the act and deed of the _____, a corporation, for the consideration, uses, and purposes and on terms and conditions therein set forth.

And the said appearer, being by me first duly sworn, did depose and say that he is the _____ of said corporation and that he signed and executed said instrument in his said capacity, and under authority of the Board of Directors of said corporation.

Thus done and passed in the State and Parish aforesaid, on the day and date first hereinabove written, and in the presence of _____ and _____, competent witnesses, who have hereunto subscribed their names as such, together with said appearer and me, said authority, after due reading of the whole.

WITNESSES:

NOTARY PUBLIC:

E. Appendix E

SOLID WASTE FACILITY
FINANCIAL GUARANTEE BOND

[Facility name, agency interest number, and permit number]

Date bond was executed: _____

Effective date: _____

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____

Surety: [name and business address]
[facility name, site name, agency interest number, site identification number, facility permit number, and current closure and/or post-closure amount(s) for each facility guaranteed by this bond]

Total penal sum of bond: \$ _____

Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as co sureties, we the sureties bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit or liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the solid waste facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure and/or post-closure care, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required by the Louisiana Administrative Code, Title 33, Part VII, when a surety bond is used to provide such financial assurance;

NOW THEREFORE, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure of the facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

OR, if the Principal shall fund the standby trust fund in such amount(s) within 15 days after an order to close is issued by the administrative authority or a court of competent jurisdiction,

OR, if the Principal shall provide alternate financial assurance as specified in LAC 33:VII.1303 and obtain written approval from the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority from the Surety, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the administrative authority that the Principal has failed to perform as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification or amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:VII.1303, and the conditions of the solid waste facility permit so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this FINANCIAL GUARANTEE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this FINANCIAL GUARANTEE BOND on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana, and that the wording of this surety bond is identical to the wording specified in LAC 33:VII.1399.Appendix E, effective on the date this bond was executed.

PRINCIPAL
[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate seal]

CORPORATE SURETIES
[Name and address]
State of incorporation: _____
Liability limit: \$ _____
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]
[This information must be provided for each cosurety]
Bond Premium: \$ _____

F. Appendix F

SOLID WASTE FACILITY
PERFORMANCE BOND

[Facility name, agency interest number, and permit number]

Date bond was executed: _____

Effective date: _____

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____

Surety: [name(s) and business address(es)]
[facility name, site name, agency interest number, site identification number, facility permit number, facility address, and closure and/or post-closure amount(s) for each facility guaranteed by this bond (indicate closure and/or post-closure costs separately)]

Total penal sum of bond: \$ _____

Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety hereto are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other

purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the solid waste facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure and/or post-closure care, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required by the *Louisiana Administrative Code*, Title 33, Part VII, when a surety bond is used to provide such financial assurance;

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

AND, if the Principal shall faithfully perform post-closure care of each facility for which this bond guarantees post-closure care, in accordance with the closure plan and other requirements of the permit, as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide financial assurance as specified in LAC 33:VII.1303 and obtain written approval of the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of LAC 33:Part VII, or of its permit, for the facility for which this bond guarantees performances of closure, the Surety shall either perform closure, in accordance with the closure plan and other permit requirements, or place the closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has been found in violation of the post-closure requirements of LAC 33:Part VII, or of its permit for the facility for which this bond guarantees performance of post-closure, the Surety shall either perform post-closure in accordance with the closure plan and other permit requirements or place the post-closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance as specified in LAC 33:VII.1303 and obtain written approval of such assurance from the administrative authority during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permit, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have lapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:VII.1303 and the conditions of the solid waste facility permit so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified in LAC 33:VII.1399.Appendix F, effective on the date this bond was executed.

PRINCIPAL
[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate seal]

CORPORATE SURETY
[Name and address]
State of incorporation: _____
Liability limit: \$ _____
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]
[For every cosurety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]
Bond premium: \$ _____

G. Appendix G

SOLID WASTE FACILITY IRREVOCABLE LETTER OF CREDIT (For Closure and/or Post-Closure Care)

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Waste Permits Division

RE: [Facility name, agency interest number, and permit number]

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No. [number] in favor of the Department of Environmental Quality of the state of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the [closure and/or post-closure] fund for its [list facility name, site name, agency interest number, site identification number, facility permit number] at [location], Louisiana, for any sum or sums up to the aggregate amount of U.S. dollars \$[amount] upon presentation of:

1. A sight draft, bearing reference to the Letter of Credit No. [number] drawn by the administrative authority, together with;

2. A statement, signed by the administrative authority, declaring that the amount of the draft is payable into the standby trust fund pursuant to the Louisiana Environmental Quality Act, R.S. 30:2001, et seq.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event that we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder or applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"], shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:VII.1399.Appendix G, effective on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution(s)]
[Date]

H. Appendix H

SOLID WASTE FACILITY
CERTIFICATE OF INSURANCE FOR CLOSURE AND/OR
POST-CLOSURE CARE

[Facility name, agency interest number, and permit number]
Name and Address of Insurer: _____
(hereinafter called the "Insurer")
Name and Address of Insured: _____
(hereinafter called the "Insured") (Note: Insured must be the permit holder or applicant)
Facilities covered: [list the facility name, site name, agency interest number, site identification number, facility permit number, facility address, and amount of insurance for closure and/or post-closure care] (These amounts for all facilities must total the face amount shown below.)
Face Amount: _____
Policy Number: _____
Effective Date: _____

The Insurer hereby certifies that it has issued to the Insured the policy of insurance identified above to provide financial assurance for [insert "closure and/or post-closure care"] for the facilities identified above. The Insurer further warrants that such policy conforms in all respects to the requirements of LAC 33:VII.1303, as applicable, and as such regulations were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

Whenever requested by the administrative authority, the Insurer agrees to furnish to the administrative authority a duplicate original of the policy listed above, including all endorsements thereon.

I hereby certify that the Insurer is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana and that the wording of this certificate is identical to the wording specified in LAC 33:VII.1399.Appendix H, effective on the date shown immediately below.

[Authorized signature of Insurer]
[Name of person signing]
[Title of person signing]
Signature of witness or notary: _____
[Date]

I. Appendix I

SOLID WASTE FACILITY
LETTER FROM THE CHIEF FINANCIAL OFFICER
(Liability Coverage, Closure, and/or Post-Closure)

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Waste Permits Division

RE: [Facility name, agency interest number, and permit number]

Dear Sir:

I am the chief financial officer of [name and address of firm, which may be the permit holder, applicant, or parent corporation of the permit holder or applicant]. This letter is in support of this firm's use of the financial test to demonstrate financial responsibility for [insert "liability coverage," "closure," and/or "post-closure," as applicable] as specified in [insert "LAC 33:VII.1301," "LAC 33:VII.1303," or "LAC 33:VII.1301 and 1303"].

[Fill out the following four paragraphs regarding facilities and associated liability coverage, and closure and post-closure cost estimates. If your firm does not have facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, list the facility name, site name, agency interest number, site identification number, and facility permit number.]

1. The firm identified above is the [insert "permit holder," "applicant for a standard permit," or "parent corporation of the permit holder or applicant for a standard permit"] of the following facilities, whether in Louisiana or not, for which liability coverage is guaranteed and demonstrated through a financial test similar to that specified in LAC 33:VII.1301. The amount of annual aggregate liability coverage covered by the test is shown for each facility:

2. The firm identified above is the [insert "permit holder," "applicant for a standard permit," or "parent corporation of the permit holder or applicant for a standard permit"] of the following facilities, whether in Louisiana or not, for which financial assurance for [insert "closure," "post-closure," or "closure and post-closure"] is guaranteed and demonstrated through a financial test similar to that specified in LAC 33:VII.1303 or other forms of self-insurance. The current [insert "closure," "post-closure," or "closure and post-closure"] cost estimates covered by the test are shown for each facility:

3. This firm guarantees through a corporate guarantee similar to that specified in [insert "LAC 33:VII.1303," or "LAC 33:VII.1301 and 1303"], for [insert "liability coverage," "closure care," "post-closure care," or "closure and post-closure care"] of the following facilities, whether in Louisiana or not, of which [insert the name of the permit holder or applicant] are/is a subsidiary of this firm. The amount of annual aggregate liability coverage covered by the guarantee for each facility and/or the current cost estimates for the closure and/or post-closure care so guaranteed is shown for each facility:

4. This firm is the owner or operator of the following facilities, whether in Louisiana or not, for which financial assurance for liability coverage, closure and/or post-closure care is not demonstrated either to the U.S. Environmental Protection Agency or to a state through a financial test or any other financial assurance mechanism similar to those specified in LAC 33:VII.1301 and/or 1303. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility.

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed year, ended [date].

[Fill in Part A if you are using the financial test to demonstrate coverage only for the liability requirements.]

Part A. Liability Coverage for Accidental Occurrences

[Fill in Alternative I if the criteria of LAC 33:VII.1303.H.1.a are used.]

Alternative I		
¹ 1. Amount of annual aggregate liability coverage to be demonstrated	\$	
*2. Current assets	\$	
*3. Current liabilities	\$	
*4. Tangible net worth	\$	
*5. If less than 90 percent of assets are located in the U.S., give total U.S. assets	\$	
	YES	NO
6. Is line 4 at least \$10 million?		
7. Is line 4 at least 6 times line 1?		
*8. Are at least 90 percent of assets located in the U.S.? If not, complete line 9.		
9. Is line 4 at least 6 times line 1?		

[Fill in Alternative II if the criteria of LAC 33:VII.1303.H.1.b are used.]

Alternative II		
¹ 1. Amount of annual aggregate liability coverage to be demonstrated	\$	
2. Current bond rating of most recent issuance of this firm and name of rating service		
3. Date of issuance of bond		
4. Date of maturity of bond		
*5. Tangible net worth	\$	
*6. Total assets in U.S. (required only if less than 90 percent of assets are located in the U.S.)	\$	
	YES	NO
7. Is line 5 at least \$10 million?		
8. Is line 5 at least 6 times line 1?		
*9. Are at least 90 percent of assets located in the U.S.? If not, complete line 10.		
10. Is line 6 at least 6 times line 1?		

[Fill in Part B if you are using the financial test to demonstrate assurance only for closure and/or post-closure care.]

Part B. Closure and/or Post-Closure

[Fill in Alternative I if the criteria of LAC 33:VII.1303.H.1.a are used.]

Alternative I		
1. Sum of current closure and/or post-closure estimate (total all cost estimates shown above)	\$	
*2. Tangible net worth	\$	
*3. Net worth	\$	
*4. Current Assets	\$	
*5. Current liabilities	\$	
*6. The sum of net income plus depreciation, depletion, and amortization	\$	
*7. Total assets in U.S. (required only if less than 90 percent of firm's assets are located in the U.S.)	\$	
	YES	NO
8. Is line 2 at least \$10 million?		
9. Is line 2 at least 6 times line 1?		
*10. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 11.		
11. Is line 7 at least 6 times line 1?		

[Fill in Alternative II if the criteria of LAC 33:VII.1303.H.1.b are used.]

Alternative II		
1. Sum of current closure and post-closure cost estimates (total of all cost estimates shown above)	\$	
2. Current bond rating of most recent issuance of this firm and name of rating service		
3. Date of issuance of bond		
4. Date of maturity of bond		
*5. Tangible net worth (If any portion of the closure and/or post-closure cost estimate is included in "total liabilities" on your firm's financial statement, you may add the amount of that portion to this line.)	\$	
*6. Total assets in U.S. (required only if less than 90 percent of the firm's assets are located in the U.S.)	\$	
	YES	NO
7. Is line 5 at least \$10 million?		
8. Is line 5 at least 6 times line 1?		
9. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 10.		
10. Is line 6 at least 6 times line 1?		

[Fill in Part C if you are using the financial test to demonstrate assurance for liability coverage, closure, and/or post-closure care.]

Part C. Liability Coverage, Closure, and/or Post-Closure

[Fill in Alternative I if the criteria of LAC 33:VII.1303.H.1.a are used.]

Alternative I		
1. Sum of current closure and/or post-closure cost estimates (total of all cost estimates listed above)	\$	
¹ 2. Amount of annual aggregate liability coverage to be demonstrated	\$	
3. Sum of lines 1 and 2	\$	
*4. Total liabilities (If any portion of your closure and/or post-closure cost estimates is included in your "total liabilities" in your firm's financial statements, you may deduct that portion from this line and add that amount to lines 5 and 6.)	\$	
*5. Tangible net worth	\$	
*6. Net worth	\$	
*7. Current assets	\$	
*8. Current liabilities	\$	
*9. The sum of net income plus depreciation, depletion, and amortization	\$	
*10. Total assets in the U.S. (required only if less than 90 percent of assets are located in the U.S.)	\$	
	YES	NO
11. Is line 5 at least \$10 million?		
12. Is line 5 at least 6 times line 3?		
*13. Are at least 90 percent of assets located in the U.S.? If not, complete line 14.		
14. Is line 10 at least 6 times line 3?		

[Fill in Alternative II if the criteria of LAC 33:VII.1303.H.1.b are used.]

Alternative II		
1. Sum of current closure and/or post-closure cost estimates (total of all cost estimates listed above)	\$	
¹ 2. Amount of annual aggregate liability coverage to be demonstrated	\$	
3. Sum of lines 1 and 2	\$	
4. Current bond rating of most recent issuance of this firm and name of rating service		
5. Date of issuance of bond		
6. Date of maturity of bond		

Alternative II		
*7. Tangible net worth (If any portion of the closure and/or post-closure cost estimates is included in the "total liabilities" in your firm's financial statements, you may add that portion to this line.)	\$	
*8. Total assets in U.S. (required only if less than 90 percent of assets are located in the U.S.)	\$	
	YES	NO
9. Is line 7 at least \$10 million?		
10. Is line 7 at least 6 times line 3?		
*11. Are at least 90 percent of assets located in the U.S.? If not, complete line 12.	___	___
12. Is line 8 at least 6 times line 3?	___	___

Indicate total amount of annual aggregate liability coverage for all covered facilities.

(The following is to be completed by all firms providing the financial test.)

I hereby certify that the wording of this letter is identical to the wording specified in LAC 33:VII.1399.Appendix I.

[Signature of Chief Financial Officer for the Firm]

[Typed Name of Chief Financial Officer]

[Title]

[Date]

J. Appendix J

SOLID WASTE FACILITY CORPORATE GUARANTEE FOR LIABILITY COVERAGE, CLOSURE, AND/OR POST-CLOSURE CARE

[Facility name, agency interest number, and permit number]

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the state of [insert name of state], hereinafter referred to as guarantor, to the Louisiana Department of Environmental Quality, obligee, on behalf of our subsidiary [insert the name of the permit holder or applicant] of [business address].

Recitals

1. The guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in LAC 33:VII.1303.H.9.

2. [Subsidiary] is the [insert "permit holder," or "applicant for a permit"] hereinafter referred to as [insert "permit holder" or "applicant"] for the following facility covered by this guarantee: [List the facility name, site name, agency interest number, site identification number, and facility permit number. Indicate for each facility whether guarantee is for liability coverage, closure, and/or post-closure and the amount of annual aggregate liability coverage, closure, and/or post-closure costs covered by the guarantee.]

[Fill in Paragraphs 3 and 4 below if the guarantee is for closure and/or post-closure.]

3. *Closure plans*, as used below, refers to the plans maintained as required by LAC 33:Part VII, for the closure and/or post-closure care of the facility identified in Paragraph 2 above.

4. For value received from [insert "permit holder" or "applicant"], guarantor guarantees to the Louisiana Department of Environmental Quality that in the event that [insert "permit holder" or "applicant"] fails to perform [insert "closure," "post-closure care," or "closure and post-closure care"] of the above facility in accordance with the closure plan and other permit requirements whenever required to do so, the guarantor shall do so or shall establish a trust fund as specified in LAC 33:VII.1303.C, as applicable, in the name of [insert "permit holder" or "applicant"] in the amount of the current closure and/or post-closure estimates, as specified in LAC 33:VII.1303.

[Fill in Paragraph 5 below if the guarantee is for liability coverage.]

5. For value received from [insert "permit holder" or "applicant"], guarantor guarantees to any and all third parties who have sustained or may sustain bodily injury or property damage caused by sudden and accidental occurrences arising from operations of the facility covered by this guarantee that in the event that [insert "permit holder" or "applicant"] fails to

satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by sudden and accidental occurrences arising from the operation of the above-named facilities, or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor will satisfy such judgment(s), award(s), or settlement agreement(s) up to the coverage limits identified above.

6. The guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the administrative authority and to [insert "permit holder" or "applicant"] that he intends to provide alternative financial assurance as specified in [insert "LAC 33:VII.1301" and/or "LAC 33:VII.1303"], as applicable, in the name of the [insert "permit holder" or "applicant"], within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless [insert "permit holder" or "applicant"] has done so.

7. The guarantor agrees to notify the administrative authority, by certified mail, of a voluntary or involuntary proceeding under Title 11 (bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

8. The guarantor agrees that within 30 days after being notified by the administrative authority of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of [insert "liability coverage" or "closure and/or post-closure care"] he shall establish alternate financial assurance as specified in [insert "LAC 33:VII.1301" and/or "LAC 33:VII.1303"], as applicable, in the name of [insert "permit holder" or "applicant"], unless [insert "permit holder" or "applicant"] has done so.

9. The guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: [if the guarantee is for closure and post-closure insert "amendment or modification of the closure and/or post-closure care, the extension or reduction of the time of performance of closure and/or post-closure"] or any other modification or alteration of an obligation of the [insert "permit holder" or "applicant"] pursuant to LAC 33:Part VII.

10. The guarantor agrees to remain bound under this guarantee for as long as the [insert "permit holder" or "applicant"] must comply with the applicable financial assurance requirements of [insert "LAC 33:VII.1301" and/or "LAC 33:VII.1303"] for the above-listed facility, except that guarantor may cancel this guarantee by sending notice by certified mail, to the administrative authority and to the [insert "permit holder" or "applicant"], such cancellation to become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the [insert "permit holder" or "applicant"], as evidenced by the return receipts.

11. The guarantor agrees that if the [insert "permit holder" or "applicant"] fails to provide alternative financial assurance as specified in [insert "LAC 33:VII.1301" and/or "LAC 33:VII.1303"], as applicable, and obtain written approval of such assurance from the administrative authority within 60 days after a notice of cancellation by the guarantor is received by the administrative authority from guarantor, guarantor shall provide such alternate financial assurance in the name of the [insert "permit holder" or "applicant"].

12. The guarantor expressly waives notice of acceptance of this guarantee by the administrative authority or by the [insert "permit holder" or "applicant"]. Guarantor expressly waives notice of amendments or modifications of the closure and/or post-closure plan and of amendments or modifications of the facility permit(s).

I hereby certify that the wording of this guarantee is identical to the wording specified in LAC 33:VII.1399.Appendix J, effective on the date first above written.

Effective date: _____

[Name of Guarantor]

[Authorized signature for guarantor]

[Typed name and title of person signing]

Thus sworn and signed before me this [date].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1098 (June 2007).

Chapter 14. Statewide Beautification **[Formerly Chapter 13]**

NOTE: The name of the Litter and Waste Reduction Section has been updated to the Recycling and Litter Abatement Section.

§1401. Purpose **[Formerly §1301]**

A. It is declared to be the purpose of these rules and regulations to:

1. control and reduce litter; and
2. create a statewide beautification program to enhance the tourist, recreational, and economic development of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2521 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2610 (November 2000), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1107 (June 2007).

§1403. Definitions **[Formerly §1303]**

A. The following words, terms, and phrases, when used in conjunction with LAC 33:VII.Subpart 1, shall have the meanings ascribed to them in this Chapter, except where the context clearly indicates a different meaning.

Commission—the Louisiana Litter Reduction and Public Action Commission.

Dump—to throw, discard, place, deposit, discharge, burn, dump, drop, eject, or allow the escape of a substance.

Litter—all waste material, except as provided and defined in R.S. 30:2173(2), including but not limited to, disposable packages, containers, sand, gravel, rubbish, cans, bottles, refuse, garbage, trash, debris, dead animals, furniture or appliances, automotive parts including, but not limited to, tires and engines, trailers, boats and boating accessories, tools and equipment, and building materials, or other discarded materials of any kind and description. *Litter* shall not include agricultural products that are being transported from the harvest or collection site to a processing or market site if reasonable measures are taken to prevent the agricultural product from leaving the transporting vehicle. *Litter* shall also not include recyclable cardboard being transported in compressed bundles to processing facilities. *Agricultural product*, as used in this definition, means all crops, livestock, poultry, and forestry; and all aquacultural, floracultural, horticultural, silvicultural, and viticultural products.

Local Governing Authority—the governing authority of the parish or the governing authority of the municipality in which the littering offense was committed.

Public or Private Property—the right-of-way of any road or highway, levee, any body of water or watercourse or the shores or beaches thereof, any park, playground, building, refuge, or conservation or recreation area, and residential or farm properties, timberland, or forests.

Section—the Recycling and Litter Abatement Section located within and acting through the Office of Environmental Services of the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:2522 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2610 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2501 (October 2005), repromulgated LR 33:1107 (June 2007).

§1405. Louisiana Litter Abatement Program **[Formerly §1305]**

A. The purpose of the Louisiana Litter Abatement Program shall be to support the community-based litter abatement programs.

B. Program Award

1. Program awards shall be made available to local governments and nonprofit organizations.

2. Funding through the program shall be subject to the availability of funds.

3. All requests for awards shall be made in writing on a form provided by the department to the Recycling and Litter Abatement Section of the Office of Environmental Services.

4. The monies awarded through the award shall be used to further the administration and execution of the Keep Louisiana Beautiful Program. Allowable uses of award funding shall include, but not be limited to:

- a. Keep America Beautiful fees;
- b. Keep America Beautiful precertification training, education curriculums, and workshops;
- c. law enforcement seminars;
- d. litter surveys;
- e. projects, services, activities, and operational costs of litter abatement programs;
- f. materials and services for program development and training;
- g. direct expenditures for materials that can facilitate litter reduction, recycling, waste reduction, reuse, and general solid waste management programs;
- h. minimal advertising, public relations, and promotional materials necessary for publicity and promotion of program activities; and
- i. the salary of the program coordinator.

5. Each successful applicant shall supplement award funds with a 25 percent match from other sources. All matching funds must be available to the program after the date of the program award, and funds spent prior to the program award shall not be considered eligible in fulfilling the match requirement.

6. Awards shall be awarded based on a comparative basis as determined by the Recycling and Litter Abatement Section of the Office of Environmental Services.

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:2524 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2610 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), repromulgated LR 33:1107 (June 2007).

Chapter 15. Solid Waste Fees
[Formerly Chapter 5.Subchapter D]

§1501. Standard Permit Application Review Fee
[Formerly §525]

A. Applicants for Type I, I-A, II, and II-A standard permits shall pay a \$3,300 permit application review fee for each facility. The fee shall accompany each permit application submitted.

B. Applicants for Type III standard permits or beneficial-use permits shall pay a permit application review fee of \$660 for each facility. The fee shall accompany each permit application submitted.

C. Permit holders providing permit modifications for Type I, I-A, II, and II-A facilities shall pay a \$1,320 permit-modification review fee. The fee shall accompany each modification submitted. Permit holders providing mandatory modifications in response to these regulations shall pay a \$660 permit-modification fee. The fee shall accompany each mandatory modification submitted. Permit modifications required by LAC 33:VII.805.A will not be subject to a permit modification fee.

D. Permit holders providing permit modifications for Type III facilities or beneficial use facilities shall pay a \$330 permit-modification review fee. The fee shall accompany each modification submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2051 (October 2003), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1108 (June 2007).

§1503. Closure Plan Review Fee
[Formerly §527]

A. Applicants for Type I, I-A, II, and II-A closures shall pay a \$1,320 closure-plan review fee. The fee shall accompany each closure plan submitted.

B. Applicants for Type III or beneficial-use facilities closures shall pay a \$330 closure-plan review fee. The fee shall accompany each closure plan submitted.

C. Permit holders providing closure-plan modifications for Type I, I-A, II, and II-A facilities shall pay a \$660 closure-plan modification review fee. The fee shall accompany each modification submitted.

D. Permit holders providing closure-plan modifications for Type III or beneficial-use facilities shall pay a \$165 closure-plan modification review fee. The fee shall accompany each modification submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2051 (October 2003), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1108 (June 2007).

§1505. Annual Monitoring and Maintenance Fee
[Formerly §529]

A. An initial fee is charged for the processing of transporter notifications.

1. The fee shall be calculated by the following formula.

$$\text{Initial fee per notification} + \text{Fee based on each vehicle owned by the transporter} = \text{Notification fee}$$

2. No fee is assessed for modifying an existing notification form. The fee shall accompany the notification form at the time of its filing.

Initial fee	\$132
Fee Per Vehicle	\$33

B. All holders of permits for solid waste processing and/or disposal facilities that have not completed closure, including post-closure activities, in accordance with an approved plan, shall be charged an annual monitoring and maintenance fee for each permit. This annual monitoring and maintenance fee shall be calculated by the following formula.

$$\text{Base fee per permit} + \text{Fee based on tonnage} = \text{Annual monitoring and maintenance fee}$$

1. Base fees are as follows:

- a. \$7,920 for Type I facilities (including facilities that handle both industrial and non-industrial waste);
- b. \$1,980 for Type II facilities; and
- c. \$660 for Type I-A, II-A, III, and beneficial-use facilities.

2. Tonnage fees will be based on the wet-weight tonnage, as reported in the previous year's disposer annual report, and are calculated as follows:

- a. for industrial wastes (Type I facilities, except surface impoundments), \$0.79/ton;
- b. for non-industrial wastes (Type II facilities, except surface impoundments), \$0.20/ton for amounts exceeding 75,000 tons;
- c. for construction or demolition debris deposited at permitted construction or demolition debris facilities (Type III facilities), \$0.20/ton; and the fee is only applicable to construction or demolition debris that is subject to a fee imposed by the facility;
- d. for surface impoundments, no tonnage fee;
- e. for publicly operated facilities that treat domestic sewage sludge, no tonnage fee; and
- f. for Type I-A, II-A, III (except construction or demolition debris disposal facilities), and beneficial-use facilities, no tonnage fee.

3. The maximum annual monitoring and maintenance fee per facility for Type I facilities (including facilities that handle both industrial and non-industrial solid wastes) is \$105,600. The maximum fee per facility for Type II facilities is \$26,400. Surface impoundments, as noted above, are assessed only the base fee.

C. The annual monitoring and maintenance period shall be from July 1 through June 30, commencing upon promulgation of these regulations and terminating upon completion of closure or post-closure activities for the facility in accordance with the permit of the administrative authority. The annual monitoring and maintenance fee for facilities during post-closure shall be 25 percent of the applicable base fee in Paragraph B.1 of this Section.

D. Fee payment shall be made by check, draft, or money order payable to the Department of Environmental Quality and mailed to the department at the address provided on the invoice.

E. Late Payment Fee. Payments not received within 15 days of the due date will be charged a late payment fee. Any late payment fee shall be calculated from the due date indicated on the invoice.

1. Payments not received by the department by the fifteenth day from the due date will be assessed a five percent late payment fee on the original assessed fee.

2. Payments not received by the department by the thirtieth day from the due date will be assessed an additional five percent late payment fee on the original assessed fee.

3. Payments not received by the department by the sixtieth day from the due date will be assessed an additional five percent late payment fee on the original assessed fee.

F. Failure to pay the prescribed application fee or annual fee as provided herein, within 90 days after the due date, will constitute a violation of these regulations and shall subject the person to applicable enforcement actions under the Act including, but not limited to, revocation or suspension of the applicable permit, license, registration, or variance.

G. The annual fees prescribed herein shall be effective retroactive for the state fiscal year in which these fee regulations are published in the *Louisiana Register* as adopted and each state fiscal year thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2051 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:2249 (December 2006), repromulgated LR 33:1108 (June 2007).

Chapter 30. Appendices

§3001. Public Notice Example—Appendix A

A. The following is an example of a public notice to be placed in the local newspaper for intention to submit a permit application to the Office of Environmental Services, Waste Permits Division, for existing/proposed solid waste facilities.

PUBLIC NOTICE
OF
INTENT TO SUBMIT PERMIT APPLICATION

[NAME OF APPLICANT/FACILITY]

FACILITY [location], PARISH [location], LOUISIANA

Notice is hereby given that [name of applicant] does intend to submit to the Department of Environmental Quality, Office of Environmental Services, Waste Permits Division, an application for a permit to operate a [type of solid waste facility] in [parish name], Range__, Township__, Section__, which is approximately [identify the physical location of the site by direction and distance from the nearest town].

Comments concerning the facility may be filed with the secretary of the Louisiana Department of Environmental Quality at the following address:

Louisiana Department of Environmental Quality
Office of Environmental Services
Waste Permits Division
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), LR 33:1109 (June 2007).

§3003. Appendix B

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repealed by the Office of the Secretary, Legal Affairs Division, LR 33:1109 (June 2007).

§3005. Groundwater Sampling and Analysis

Plan—Appendix C

Groundwater Sampling and Analysis Plan

A. All wells must be measured for total depth and depth to water on the same day and immediately prior to purging. Measurements must be to the nearest 0.01 foot, and the values must be recorded in the field notebook. If 10 percent of the screened interval is blocked by sediments, the well must be redeveloped prior to the next required sampling event. Wells with dedicated sampling devices that preclude total-depth measurement must be measured annually.

B. Each well must be purged by evacuation to dryness or by removing a minimum of three casing volumes. The well must be sampled immediately upon purging and/or when sufficient water for sampling has recharged the well. Purging and sampling methods must be consistent throughout the life of the facility. Samples shall not be field filtered prior to laboratory analysis.

C. Samples must be withdrawn using dedicated or adequately cleaned equipment for each well. No equipment or method may be used that will chemically alter or influence the sample. Sampling devices, other than bailers, must be approved by the administrative authority prior to use in monitoring programs. Care must be taken to avoid placing clean sampling equipment on the ground or on any contaminated surface. Sampling methods and equipment must be compatible throughout the life of the facility.

D. Sample preservation, handling, and analysis shall meet the specifications of SW-846, or an equivalent substitute as approved by the administrative authority. Parameters, containers, preservation methods, and analytical limits are listed in Tables 1 and 2.

E. Analytical methods with the equivalency to SW-846, or analytical methods for parameters not listed in SW-846, shall be approved by the administrative authority prior to implementation.

F. A chain of custody shall be employed that will allow for the possession and handling of samples to be traced from the time of collection through laboratory analysis. All sample containers shall be labeled to prevent misidentification, have proper seals, and indicate the test parameters required.

G. At the site, an up-to-date field logbook shall be kept, which documents for each sample the well identification number, total well depth, elevation of top of casing, water level, water color, well-evacuation procedures and equipment, date, time, sample identification numbers, field measurements (pH, specific conductance, etc.) and methods, name of collector, field observations, calculations of the standing-water volume in the well, and the total volume evacuated.

Table 1		
Detection Monitoring Parameters ¹		
	Common Name ²	CAS RN ³
(1)	Antimony	(Total)
(2)	Arsenic	(Total)
(3)	Barium	(Total)
(4)	Beryllium	(Total)
(5)	Cadmium	(Total)
(6)	Chromium	(Total)
(7)	Cobalt	(Total)
(8)	Copper	(Total)
(9)	Lead	(Total)
(10)	Nickel	(Total)
(11)	Selenium	(Total)

Table 1		
Detection Monitoring Parameters ¹		
Common Name ²		CAS RN ³
(12)	Silver	(Total)
(13)	Thallium	(Total)
(14)	Vanadium	(Total)
(15)	Zinc	(Total)
Organic Constituents:		
(16)	Acetone	67-64-1
(17)	Acrylonitrile	107-13-1
(18)	Benzene	71-43-2
(19)	Bromochloromethane	74-97-5
(20)	Bromodichloromethane	75-27-4
(21)	Bromoform; Tribromomethane	75-25-2
(22)	Carbon disulfide	75-15-0
(23)	Carbon tetrachloride	56-23-5
(24)	Chlorobenzene	108-90-7
(25)	Chloroethane; Ethyl chloride	75-00-3
(26)	Chloroform; Trichloromethane	67-66-3
(27)	Dibromochloromethane; Chlorodibromomethane	124-48-1
(28)	1,2-Dibromo-3-chloropropane; DBCP	96-12-8
(29)	1,2-Dibromoethane; Ethylene dibromide; EDB	106-93-4
(30)	o-Dichlorobenzene; 1,2-Dichlorobenzene	95-50-1
(31)	p-Dichlorobenzene; 1,4-Dichlorobenzene	106-46-7
(32)	trans-1,4-Dichloro-2-butene	110-57-6
(33)	1,1-Dichloroethane; Ethylidene chloride	75-34-3
(34)	1,2-Dichloroethane; Ethylene dichloride	107-06-2
(35)	1,1-Dichloroethylene; 1,1-Dichloroethene; Vinylidene chloride	75-35-4
(36)	cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene	156-59-2
(37)	trans-1,2-Dichloroethylene; trans-1,2-Dichloroethene	156-60-5
(38)	1,2-Dichloropropane; Propylene dichloride	78-87-5
(39)	cis-1,3-Dichloropropene	10061-01-5
(40)	trans-1,3-Dichloropropene	10061-02-6

Table 1		
Detection Monitoring Parameters ¹		
Common Name ²		CAS RN ³
(41)	Ethylbenzene	100-41-4
(42)	2-Hexanone; Methyl butyl ketone	591-78-6
(43)	Methyl bromide; Bromomethane	74-83-9
(44)	Methyl chloride; Chloromethane	74-87-3
(45)	Methylene bromide; Dibromomethane	74-95-3
(46)	Methylene chloride; Dichloromethane	75-09-2
(47)	Methyl ethyl ketone; MEK; 2-Butanone	78-93-3
(48)	Methyl iodide; Iodomethane	74-88-4
(49)	4-Methyl-2-pentanone; Methyl isobutyl ketone	108-10-1
(50)	Styrene	100-42-5
(51)	1,1,1,2-Tetrachloroethane	630-20-6
(52)	1,1,2,2-Tetrachloroethane	79-34-5
(53)	Tetrachloroethylene; Tetrachloroethene; Perchloroethylene	127-18-4
(54)	Toluene	108-88-3
(55)	1,1,1-Trichloroethane; Methylchloroform	71-55-6
(56)	1,1,2-Trichloroethane	79-00-5
(57)	Trichloroethylene; Trichloroethene	79-01-6
(58)	Trichlorofluoromethane; CFC-11	75-69-4
(59)	1,2,3-Trichloropropane	96-18-4
(60)	Vinyl acetate	108-05-4
(61)	Vinyl chloride	75-01-4
(62)	Xylenes	1330-20-7

NOTES:

¹ This list contains 47 volatile organics for which possible analytical procedures provided in EPA Publication SW-846, *Test Methods for Evaluating Solid Wastes*, include Method 8260; and 15 metals for which SW-846 provides either Method 6010 or a method from the 7000 series of methods.

² Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

³ Chemical Abstracts Service registry number. Where "Total" is entered, all species in the groundwater that contain this element are included.

Table 2				
Assessment Monitoring Parameters ¹				
Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴	Suggested Methods ⁵	PQL ⁶ (µg/L)
Acenaphthene	83-32-9	Acenaphthylene, 1,2-dihydro-	8100 8270	200 10
Acenaphthylene	208-96-8	Acenaphthylene	8100 8270	200 10
Acetone	67-64-1	2-Propanone	8260	100
Acetonitrile; Methyl cyanide	75-05-8	Acetonitrile	8015	100
Acetophenone	98-86-2	Ethanone, 1-phenyl-	8270	10
2-Acetylaminofluorene; 2-AAF	53-96-3	Acetamide, N-9H-fluoren-2-yl-	8270	20
Acrolein	107-02-8	2-Propenal	8030 8260	5 100
Acrylonitrile	107-13-1	2-Propenenitrile	8030 8260	5 200
Aldrin	309-00-2	1,4:5,8-Dimethanonaphthalene; 1,2,3,4,10,10-hexachloro- 1,4,4a,5,8,8a,- hexahydro-(1α,4α,4aβ, 5α,8α,8aβ)	8080 8270	0.05 10
Allyl chloride	107-05-1	1-Propene, 3-chloro-	8010 8260	5 10
4-Amino-biphenyl	92-67-1	[1,1'-Biphenyl]-4-amine	8270	20
Anthracene	120-12-7	Anthracene	8100 8270	200 10
Antimony	(Total)	Antimony	6010 7040 7041	300 2,000 30

Table 2				
Assessment Monitoring Parameters ¹				
Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴	Suggested Methods ⁵	PQL ⁶ (µg/L)
Arsenic	(Total)	Arsenic	6010 7060 7061	500 10 20
Barium	(Total)	Barium	6010 7080	20 1,000
Benzene	71-43-2	Benzene	8020 8021 8260	2 0.1 5
Benzo[a]anthracene; 1,2-Benzanthracene	56-55-3	Benzo[a]anthracene	8100 8270	200 10
Benzo[b]fluoranthene	205-99-2	Benzo[e]acephenanthrylene	8100 8270	200 10
Benzo[k]fluoranthene	207-08-9	Benzo[k]fluoranthene	8100 8270	200 10
Benzo[ghi]perylene	191-24-2	Benzo[ghi]perylene	8100 8270	200 10
Benzo[a]pyrene	50-32-8	Benzo[a]pyrene	8100 8270	200 10
Benzyl alcohol	100-51-6	Benzenemethanol	8270	20
Beryllium	(Total)	Beryllium	6010 7090 7091	3 50 2
alpha-BHC	319-84-6	Cyclohexane, 1,2,3,4,5,6-hexachloro-(1 α ,2 α ,3 β ,4 α ,5 β ,6 β)-	8080 8270	0.05 10
beta-BHC	319-85-7	Cyclohexane, 1,2,3,4,5,6-hexachloro-(1 α ,2 β ,3 α ,4 β ,5 α ,6 β)-	8080 8270	0.05 20
delta-BHC	319-86-8	Cyclohexane, 1,2,3,4,5,6-hexachloro-(1 α ,2 α ,3 α ,4 β ,5 α ,6 β)-	8080 8270	0.1 20
gamma-BHC; Lindane	58-89-9	Cyclohexane, 1,2,3,4,5,6-hexachloro-(1 α ,2 α ,3 β ,4 α ,5 α ,6 β)-	8080 8270	0.05 20
Bis(2-chloroethoxy)methane	111-91-1	Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-	8110 8270	5 10
Bis(2-chloroethyl)ether	111-44-4	Ethane, 1,1'-oxybis[2-chloro-	8110 8270	3 10
Bis(2-chloro-1-methylethyl) ether; 2,2'-Dichlorodiisopropyl ether	108-60-1 See Note 7	Propane, 2,2'-oxybis[1-chloro-	8110 8270	10 10
Bis(2-ethylhexyl) phthalate	117-81-7	1,2-Benzene-dicarboxylic acid; bis(2-ethylhexyl) ester	8060	20
Bromochloromethane; Chlorobromomethane	74-97-5	Methane, bromochloro-	8021 8260	0.1 5
Bromodichloromethane	75-27-4	Methane, bromodichloro-	8010 8021 8260	1 0.2 5
Bromoform; Tribromomethane	75-25-2	Methane, tribromo-	8010 8021 8260	2 15 5
4-Bromophenyl phenyl ether	101-55-3	Benzene, 1-bromo-4-phenoxy-	8110 8270	25 10
Butyl benzyl phthalate; Benzyl butyl phthalate	85-68-7	1,2-Benzenedicarboxylic acid; butyl phenylmethyl ester	8060 8270	5 10
Cadmium	(Total)	Cadmium	6010 7130 7131	40 50 1
Carbon disulfide	75-15-0	Carbon disulfide	8260	100
Carbon tetrachloride	56-23-5	Methane, tetrachloro-	8010 8021 8260	1 0.1 10
Chlordane	57-74-9 See Note 8	4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a- hexahydro-	8080 8270	0.1 50
p-Chloroaniline	106-47-8	Benzenamine, 4-chloro-	8270	20
Chlorobenzene	108-90-7	Benzene, chloro-	8010 8020 8021 8260	2 2 0.1 5
Chlorobenzilate	510-15-6	Benzeneacetic acid, 4-chloro- α -(4-chlorophenyl)- α -hydroxy-, ethyl ester	8270	10
p-Chloro-m-cresol	59-50-7	Phenol, 4-chloro-3-methyl-	8040 8270	5 20

Table 2				
Assessment Monitoring Parameters ¹				
Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴	Suggested Methods ⁵	PQL ⁶ (µg/L)
Chloroethane; Ethyl chloride	75-00-3	Ethane, chloro-	8010	5
			8021	1
			8260	10
Chloroform	67-66-3	Methane, trichloro-	8010	0.5
			8021	0.2
			8260	5
2-Chloronaphthalene	91-58-7	Naphthalene, 2-chloro-	8120	10
			8270	10
2-Chlorophenol	95-57-8	Phenol, 2-chloro-	8040	5
			8270	10
4-Chlorophenyl phenyl ether	7005-72-3	Benzene, 1-chloro-4-phenoxy-	8110	40
			8270	10
Chloroprene	126-99-8	1,3-Butadiene, 2-chloro-	8010	50
			8260	20
Chromium	(Total)	Chromium	6010	70
			7190	500
			7191	10
Chrysene	218-01-9	Chrysene	8100	200
			8270	10
Cobalt	(Total)	Cobalt	6010	70
			7200	500
			7201	10
Copper	(Total)	Copper	6010	60
			7210	200
m-Cresol	108-39-4	Phenol, 3-methyl-	8270	10
o-Cresol	95-48-7	Phenol, 2-methyl-	8270	10
p-Cresol	106-44-5	Phenol, 4-methyl-	8270	10
Cyanide	57-12-5	Cyanide	9010	200
2,4-D; 2,4-Dichlorophenoxyacetic acid	94-75-7	Acetic acid, (2,4-dichlorophenoxy)-	8150	10
4,4'-DDD	72-54-8	Benzene 1,1'-(2,2-dichloroethylidene) bis[4-chloro-	8080	0.1
			8270	10
4,4'-DDE	72-55-9	Benzene, 1,1'-(dichloroethenylidene) bis[4-chloro-	8080	0.05
			8270	10
4,4'-DDT	50-29-3	Benzene, 1,1'-(2,2,2-trichloroethylidene) bis[4-chloro-	8080	0.1
			8270	10
Diallate	2303-16-4	Carbamothioic acid, bis(1-methyl-ethyl)-, S-(2,3-dichloro-2-propenyl) ester	8270	10
Dibenz[a,h]-anthracene	53-70-3	Dibenz[a,h]anthracene	8100	200
			8270	10
Dibenzofuran	132-64-9	Dibenzofuran	8270	10
Dibromochloromethane; Chlorodibromomethane	124-48-1	Methane, dibromochloro-	8010	1
			8021	0.3
			8260	5
1,2-Dibromo-3-chloropropane; DBCP	96-12-8	Propane, 1,2-dibromo-3-chloro-	8011	0.1
			8021	30
			8260	25
1,2-Dibromoethane; Ethylene dibromide	106-93-4	Ethane, 1,2-dibromo-	8011	0.1
			8021	10
			8260	5
Di-n-butyl phthalate	84-74-2	1,2-Benzene dicarboxylic acid, dibutyl ester	8060	5
			8270	10
o-Dichlorobenzene	95-50-1	Benzene, 1,2-dichloro-	8010	2
			8020	5
			8021	0.5
			8120	10
			8260	5
			8270	10
m-Dichlorobenzene	541-73-1	Benzene, 1,3-dichloro-	8010	5
			8020	5
			8021	0.2
			8120	10
			8260	5
			8270	10
p-Dichlorobenzene	106-46-7	Benzene, 1,4-dichloro-	8010	2
			8020	5
			8021	0.1
			8120	15
			8260	5
			8270	10

Table 2				
Assessment Monitoring Parameters ¹				
Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴	Suggested Methods ⁵	PQL ⁶ (µg/L)
3,3'-Dichlorobenzidine	91-94-1	[1,1'-Biphenyl]-4,4'-diamine, 3,3'- dichloro-	8270	20
trans-1,4-Dichloro-2-butene	110-57-6	2-Butene, 1,4-dichloro-, (E)-	8260	100
Dichlorodifluoromethane	75-71-8	Methane, dichlorodifluoro-	8021 8260	0.5 5
1,1-Dichloroethane	75-34-3	Ethane, 1,1-dichloro-	8010 8021 8260	1 0.5 5
1,2-Dichloroethane; Ethylene dichloride	107-06-2	Ethane, 1,2-dichloro-	8010 8021 8260	0.5 0.3 5
1,1-Dichloroethylene; Vinylidene chloride	75-35-4	Ethene, 1,1-dichloro	8010 8021 8260	1 0.5 5
cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene	156-59-2	Ethene, 1,2-dichloro-, (Z)-	8021 8260	0.2 5
trans-1,2-Dichloroethylene	156-60-5	Ethene, 1,2-dichloro-(E)-	8010 8021 8260	1 0.5 5
2,4-Dichlorophenol	120-83-2	Phenol, 2,4-dichloro-	8040 8270	5 10
2,6-Dichlorophenol	87-65-0	Phenol, 2,6-dichloro-	8270	10
1,2-Dichloropropane	78-87-5	Propane, 1,2-dichloro-	8010 8021 8260	0.5 0.05 5
1,3-Dichloropropane; Trimethylene dichloride	142-28-9	Propane, 1,3-dichloro-	8021 8260	0.3 5
2,2-Dichloropropane; Isopropylidene chloride	594-20-7	Propane, 2,2-dichloro-	8021 8260	0.5 15
1,1-Dichloropropene	563-58-6	1-Propene, 1,1-dichloro-	8021 8260	0.2 5
cis-1,3-Dichloropropene	10061-01-5	1-Propene, 1,3-dichloro-, (Z)-	8010 8260	20 10
trans-1,3-Dichloropropene	10061-02-6	1-Propene, 1,3-dichloro-, (E)-	8010 8240	5 5
Dieldrin	60-57-1	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro- 1a,2,2a,3,6,6a,7,7a-octahydro-, (1α,2β,2α,3β,6β,6α,7β,7α)-	8080 8270	0.05 10
Diethyl phthalate	84-66-2	1,2-Benzenedicarboxylic acid, diethyl ester	8060 8270	5 10
O,O-Diethyl O-2-pyrazinyl phosphorothioate; Thionazin	297-97-2	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester	8141 8270	5 20
Dimethoate	60-51-5	Phosphorodithioic acid, O,O-dimethyl-S-[2-(methylamino)-2-oxoethyl] ester	8141 8270	3 20
p-(Dimethylamino)azobenzene	60-11-7	Benzenamine, N,N-dimethyl-4- (phenylazo)-	8270	10
7,12-Dimethylbenz[a] anthracene	57-97-6	Benz[a]anthracene, 7,12-dimethyl-	8270	10
3,3'-Dimethylbenzidine	119-93-7	[1,1'-Biphenyl]-4,4'-diamine, 3,3'- dimethyl-	8270	10
2,4-Dimethylphenol	105-67-9	Phenol, 2,4-dimethyl-	8040	5
Dimethyl phthalate	131-11-3	1,2-Benzenedicarboxylic acid, dimethyl ester	8060 8270	5 10
m-Dinitrobenzene	99-65-0	Benzene, 1,3-dinitro-	8270	20
4,6-Dinitro-o-cresol	534-52-1	Phenol, 2-methyl-4,6-dinitro-	8040 8270	150 50
2,4-Dinitrophenol	51-28-5	Phenol, 2,4-dinitro-	8040 8270	150 50
2,4-Dinitrotoluene	121-14-2	Benzene, 1-methyl-2,4-dinitro-	8090 8270	0.2 10
2,6-Dinitrotoluene	606-20-2	Benzene, 2-methyl-1,3-dinitro-	8090 8270	0.1 10
Dinoseb; DNBP; 2-sec-Butyl-4,6-dinitrophenol	88-85-7	Phenol, 2-(1-methyl- propyl)-4,6-dinitro-	8150 8270	1 20
Di-n-octyl phthalate	117-84-0	1,2-Benzenedicarboxylic acid, dioctyl ester	8060 8270	30 10
Diphenylamine	122-39-4	Benzenamine, N-phenyl-	8270	10
Disulfoton	298-04-4	Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio) ethyl]ester	8140 8141 8270	2 0.5 10
Endosulfan I	959-98-8	6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10-hexachloro -1,5,5a,6,9,9a-hexahydro-,3-oxide, (3α,5aβ,6α,9α,9aβ)-	8080 8270	0.1 20

Table 2				
Assessment Monitoring Parameters ¹				
Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴	Suggested Methods ⁵	PQL ⁶ (µg/L)
Endosulfan II	33213-65-9	6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10-hexachloro -1,5,5a,6,9,9a-hexahydro-,3-oxide, (3α,5α,6β,9β,9α)-	8080 8270	0.05 20
Endosulfan sulfate	1031-07-8	6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10-hexa-chloro -1,5,5a,6,9,9a-hexahydro-,3,3-dioxide	8080 8270	0.5 10
Endrin	72-20-8	2,7:3,6-Dimethanonaphth [2,3-b]oxirene, 3,4,5,6,9,9-hexachloro- 1a,2,2a,3,6,6a,7,7a-octahydro-, (1α,2β,2aβ,3α,6α,6aβ, 7β,7aα)-	8080 8270	0.1 20
Endrin aldehyde	7421-93-4	1,2,4-Methenocyclopenta[cd]-pentalene-5-carboxaldehyde, 2,2a,3,3,4,7-hexachlorodecahydro- (1α,2β,2aβ,4β,4aβ,5β,6aβ,6bβ,7R*)	8080 8270	0.2 10
Ethylbenzene	100-41-4	Benzene, ethyl-	8020 8221 8260	2 0.05 5
Ethyl methacrylate	97-63-2	2-Propenoic acid, 2-methyl-, ethyl ester	8015 8260 8270	5 10 10
Ethyl methanesulfonate	62-50-0	Methanesulfonic acid, ethyl ester	8270	20
Famphur	52-85-7	Phosphorothioic acid, O-[4-[(dimethyl- amino)-sulfonyl] phenyl]-O,O-dimethyl ester	8270	20
Fluoranthene	206-44-0	Fluoranthene	8100 8270	200 10
Fluorene	86-73-7	9H-Fluorene	8100 8270	200 10
Heptachlor	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a- tetrahydro-	8080 8270	0.05 10
Heptachlor epoxide	1024-57-3	2,5-Methano-2H-indeno [1,2-b]oxirene, 2,3,4,5,6,7,7-heptachloro- 1a,1b,5,5a,6,6a-hexahydro-, (1α,1bβ,2α,5α,5aβ,6β,6aα)	8080 8270	1 10
Hexachlorobenzene	118-74-1	Benzene, hexachloro-	8120 8270	0.5 10
Hexachlorobutadiene	87-68-3	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-	8021 8120 8260 8270	0.5 5 10 10
Hexachlorocyclopentadiene	77-47-4	1,3-Cyclopentadiene	8120 8270	5 10
Hexachloroethane	67-72-1	Ethane, hexachloro-	8120 8260 8270	0.5 10 10
Hexachloropropene	1888-71-7	1-Propene, 1,1,2,3,3,3-hexachloro-	8270	10
2-Hexanone	591-78-6	2-Hexanone	8260	50
Indeno(1,2,3-cd) pyrene	193-39-5	Indeno[1,2,3-cd] pyrene	8100 8270	200 10
Isobutyl alcohol	78-83-1	1-Propanol, 2-methyl-	8015 8240	50 100
Isodrin	465-73-6	1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a- hexahydro- (1α,4α,4aβ,5β,8β,8aβ)-	8270 8260	20 10
Isophorone	78-59-1	2-Cyclohexen-1-one, 3,5,5-tri-methyl-	8090 8270	60 10
Isosafrole	120-58-1	1,3-Benzodioxole, 5-(1-propenyl)-	8270	10
Kepone	143-50-0	1,3,4-Metheno-2H- cyclobuta-[cd] pentalen-2-one, 1,1a,3,3a,4,5,5a,5b,6- decachlorooctahydro-	8270	20
Lead	(Total)	Lead	6010 7420 7421	400 1,000 10
Mercury	(Total)	Mercury	7470	2
Methacrylonitrile	126-98-7	2-Propene, nitrile 2-methyl-	8015 8260	5 100
Methapyrilene	91-80-5	1,2-Ethanediamine, N,N-dimethyl-N'-2-pyridinyl-N'-(2- thienylmethyl)-	8270	100

Table 2				
Assessment Monitoring Parameters ¹				
Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴	Suggested Methods ⁵	PQL ⁶ (µg/L)
Methoxychlor	72-43-5	Benzene, 1,1'-(2,2,2, trichloroethylidene) bis[4-methoxy-	8080 8270	2 10
Methyl bromide; Bromomethane	74-83-9	Methane, bromo-	8010 8021	20 10
Methyl chloride; Chloromethane	74-87-3	Methane, chloro-	8010 8021	1 0.3
3-Methylcholanthrene	56-49-5	Benz[<i>jj</i>]aceanthrylene, 1,2-dihydro- 3-methyl-	8270	10
Methyl ethyl ketone; MEK	78-93-3	2-Butanone	8015 8260	10 100
Methyl iodide; Iodomethane	74-88-4	Methane, iodo-	8010 8260	40 10
Methyl methacrylate	80-62-6	2-Propenoic acid, 2-methyl-, methyl ester	8015 8260	2 30
Methyl methanesulfonate	66-27-3	methanesulfonic acid, methyl ester	8270	10
2-Methylnaphthalene	91-57-6	Naphthalene, 2-methyl-	8270	10
Methyl parathion; Parathion methyl	298-00-0	Phosphorothioic acid, O,O-dimethyl O-(4-nitrophenyl) ester	8140 8141 8270	0.5 1 10
4-Methyl-2-pentanone; Methyl isobutyl ketone	108-10-1	2-Pentanone, 4-methyl	8015 8260	5 100
Methylene bromide; Dibromomethane	74-95-3	Methane, dibromo-	8010 8021 8260	15 20 10
Methylene chloride; Dichloromethane	75-09-2	Methane, dichloro-	8010 8021 8060	5 0.2 10
Naphthalene	91-20-3	Naphthalene	8021 8100 8260 8270	0.5 200 5 10
1,4-Naphthoquinone	130-15-4	1,4-Naphthalenedione	8270	10
1-Naphthylamine	134-32-7	1-Naphthalenamine	8270	10
2-Naphthylamine	91-59-8	2-Naphthalenamine	8270	10
Nickel	(Total)	Nickel	6010 7520	50 400
o-Nitroaniline	88-74-4	Benzenamine, 2-nitro-	8270	50
m-Nitroaniline	99-09-2	Benzenamine, 3-nitro-	8270	50
p-Nitroaniline	100-01-6	Benzenamine, 4-nitro-	8270	50
Nitrobenzene	98-95-3	Benzene, nitro-	8090 8270	40 10
o-Nitrophenol	88-75-5	Phenol, 2-nitro-	8040 8270	5 10
p-Nitrophenol	100-02-7	Phenol, 4-nitro	8040 8270	10 50
N-Nitrosodi-n-butylamine	924-16-3	1-Butanamine, N-butyl-N-nitroso-	8270	10
N-Nitrosodiethylamine	55-18-5	Ethanamine, N-ethyl-N-nitroso-	8270	20
N-Nitrosodimethylamine	62-75-9	Methanamine, N-methyl-N-nitroso-	8070	2
N-Nitrosodiphenylamine	86-30-6	Benzenamine, N-nitroso-N-phenyl-	8070	5
N-Nitrosodipropylamine; Di-n-propylnitrosamine	621-64-7	1-Propanamine, N-nitroso-N-propyl-	8070	10
N-Nitrosomethylethylamine	10595-95-6	Ethanamine, N-methyl-N-nitroso-	8270	10
N-Nitrosopiperidine	100-75-4	Piperidine, 1-nitroso-	8270	20
N-Nitrosopyrrolidine	930-55-2	Pyrrolidine, 1-nitroso-	8270	40
5-Nitro-o-toluidine	99-55-8	Benzenamine, 2- methyl-5-nitro-	8270	10
Parathion	56-38-2	Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester	8141 8270	0.5 10
Pentachlorobenzene	608-93-5	Benzene, pentachloro-	8270	10
Pentachloronitrobenzene	82-68-8	Benzene, pentachloronitro-	8270	20
Pentachlorophenol	87-86-5	Phenol, pentachloro-	8040 8270	5 50
Phenacetin	62-44-2	Acetamide, N-(4-ethoxyphenyl)	8270	20
Phenanthrene	85-01-8	Phenanthrene	8100 8270	200 10

Table 2				
Assessment Monitoring Parameters ¹				
Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴	Suggested Methods ⁵	PQL ⁶ (µg/L)
Phenol	108-95-2	Phenol	8040	1
			8270	10
p-Phenylenediamine	106-50-3	1,4-Benzenediamine	8270	10
Phorate	298-02-2	Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester	8140	2
			8141	0.5
			8270	10
Polychlorinated biphenyls; PCBs	See Note 9	1,1'-Biphenyl, chloro derivatives	8080	50
			8270	200
Pronamide	23950-58-5	Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-	8270	10
Propionitrile; Ethyl cyanide	107-12-0	Propanenitrile	8015	60
			8260	150
Pyrene	129-00-0	Pyrene	8100	200
			8270	10
Safrole	94-59-7	1,3-Benzodioxole, 5-(2-propenyl)-	8270	10
Selenium	(Total)	Selenium	6010	750
			7740	20
			7741	20
Silver	(Total)	Silver	6010	70
			7760	100
Silvex; 2,4,5-TP	93-72-1	Propanoic acid, 2-(2,4,5-trichlorophenoxy)-	8150	2
Styrene	100-42-5	Benzene, ethenyl-	8020	1
			8021	0.1
			8260	10
Sulfide	18496-25-8	Sulfide	9030	4,000
			2,4,5-T; 2,4,5-Trichlorophenoxyacetic acid	93-76-5
1,2,4,5-Tetrachlorobenzene	95-94-3	Benzene, 1,2,4,5-tetrachloro-	8270	10
1,1,1,2-Tetrachloroethane	630-20-6	Ethane, 1,1,1,2-tetrachloro-	8010	5
			8021	0.05
			8260	5
1,1,2,2-Tetrachloroethane	79-34-5	Ethane, 1,1,2,2-tetrachloro-	8010	0.5
			8021	0.1
			8260	5
Tetrachloroethylene; Perchloroethylene; Tetrachloroethene	127-18-4	Ethene, tetrachloro-	8010	0.5
			8021	0.5
			8260	5
2,3,4,6-Tetrachlorophenol	58-90-2	Phenol, 2,3,4,6-tetrachloro-	8270	10
Thallium	(Total)	Thallium	6010	400
			7840	1,000
			7841	10
Tin	(Total)	Tin	6010	40
Toluene	108-88-3	Benzene, methyl-	8020	2
			8021	0.1
			8260	5
o-Toluidine	95-53-4	Benzenamine, 2-methyl-	8270	10
Toxaphene	8001-35-2 See note 10	Toxaphene	8080	2
			1,2,4-Trichlorobenzene	120-82-1
			8120	0.5
			8260	10
			8270	10
			1,1,1-Trichloroethane; Methylchloroform	71-55-6
			8021	0.3
			8260	5
			1,1,2-Trichloroethane	79-00-5
			8260	5
			Trichloroethylene; Trichloroethene	79-01-6
			8021	0.2
			8260	5
			Trichlorofluoromethane	75-69-4
			8021	0.3
			8260	5

Table 2				
Assessment Monitoring Parameters ¹				
Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴	Suggested Methods ⁵	PQL ⁶ (µg/L)
2,4,5-Trichlorophenol	95-95-4	Phenol, 2,4,5-trichloro-	8270	10
2,4,6-Trichlorophenol	88-06-2	Phenol, 2,4,6-trichloro-	8040 8270	5 10
1,2,3-Trichloropropane	96-18-4	Propane, 1,2,3-trichloro-	8010 8021 8260	10 5 15
O,O,O-Triethyl phosphorothioate	126-68-1	Phosphorothioic acid, O,O,O-triethyl ester	8270	10
sym-Trinitrobenzene	99-35-4	Benzene, 1,3,5-trinitro	8270	10
Vanadium	(Total)	Vanadium	6010 7910 7911	80 2,000 40
Vinyl acetate	108-05-4	Acetic acid, ethenyl ester	8260	50
Vinyl chloride	75-01-4	Ethene, chloro-	8010 8021 8260	2 0.4 10
Xylene (total)	1330-20-7 See Note 11	Benzene, dimethyl-	8020 8021 8260	5 0.2 5
Zinc	(Total)	Zinc	6010 7950 7951	20 50 0.5

Notes:

¹ The regulatory requirements pertain only to the list of substances; the right-hand columns (Methods and PQL) are given for informational purposes only. See also Footnotes 5 and 6.

² Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

³ Chemical Abstracts Service registry number. Where "Total" is entered, all species in the groundwater that contain this element are included.

⁴ CAS index numbers are those used in the 9th Collective Index.

⁵ *Suggested Methods* refer to analytical procedure numbers used in EPA Publication SW-846. Analytical details can be found in SW-846 and in documentation on file at the agency.

Caution: The methods listed are representative of SW-846 procedures and may not always be the most suitable methods for monitoring an analyte under the regulations.

⁶ *Practical Quantitation Limits* (PQLs) are the lowest concentrations of analytes in groundwaters that can be reliably determined within specified limits of precision and accuracy by the indicated methods under routine laboratory operating conditions. The PQLs listed are generally stated to one significant figure. PQLs are based on 5-ml samples for volatile organics and 1-L samples for semivolatile organics.

Caution: The PQL values in many cases are based only on a general estimate for the method and not on a determination

for individual compounds; PQLs are not a part of the regulation.

⁷ This substance is often called Bis(2-chloroisopropyl) ether, the name that Chemical Abstracts Service applies to its noncommercial isomer, Propane, 2,2"-oxybis[2-chloro- (CAS RN 39638-32-9).

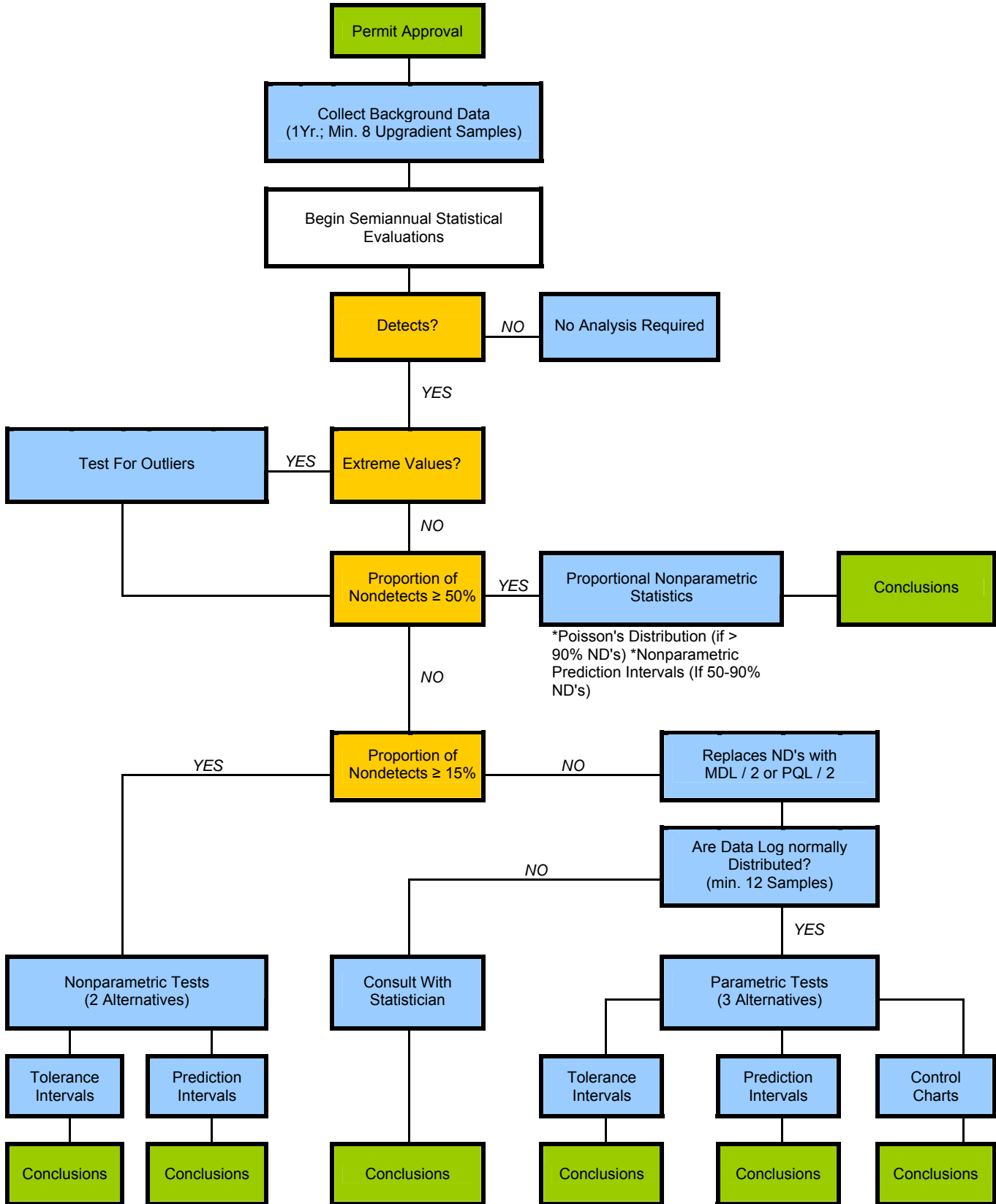
⁸ Chlordane: This entry includes alpha-chlordane (CAS RN 5103-71-9), beta-chlordane (CAS RN 5103-74-2), gamma-chlordane (CAS RN 5566-34-7), and constituents of chlordane (CAS RN 57-74-9 and CAS RN 12789-03-6). PQL shown is for technical chlordane. PQLs of specific isomers are about 20 ug/L by method 8270.

⁹ Polychlorinated biphenyls (CAS RN 1336-36-3); this category contains congener chemicals, including constituents of Aroclor 1016 (CAS RN 12674-11-2), Aroclor 1221 (CAS RN 11104-28-2), Aroclor 1232 (CAS RN 11141-16-5), Aroclor 1242 (CAS RN 53469-21-9), Aroclor 1248 (CAS RN 12672-29-6), Aroclor 1254 (CAS RN 11097-69-1), and Aroclor 1260 (CAS RN 11096-82-5). The PQL shown is an average value for PCB congeners.

¹⁰ Toxaphene: This entry includes congener chemicals contained in technical toxaphene (CAS RN 8001-35-20), i.e., chlorinated camphene.

¹¹ Xylene (total): This entry includes o-xylene (CAS RN 96-47-6), m-xylene (CAS RN 108-38-3), p-xylene (CAS RN 106-42-3), and unspecified xylenes (dimethylbenzenes) (CAS RN 1330-20-7). PQLs for method 8021 are 0.2 for o-xylene and 0.1 for m- or p-xylene. The PQL for m-xylene is 2.0 ug/L by method 8020 or 8260.

DECISION TREE DIAGRAM
(for Groundwater Data Statistical Procedure Selection)



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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1109 (June 2007).

§3007. Processes to Reduce Pathogens—Appendix D.1 and D.2

[Formerly Appendix D.2 existed in §3009.Appendix E.]

Appendix D.1	
Processes to Significantly Reduce Pathogens	
Aerobic Digestion	A process conducted by agitating solid waste with air or oxygen to maintain aerobic conditions at residence times ranging from 60 days at 15°C to 40 days at 20°C, with a volatile-solids reduction of at least 38 percent.
Air Drying	A process that allows liquid waste to drain and/or dry on under-drained sand beds or on paved or unpaved basins in which the depth of the waste is 9 inches. A minimum of three months is needed for this process; during two of these months daily temperatures must average above 0° C.
Anaerobic Digestion	A process conducted in the absence of air during a residence time ranging from 60 days at 20°C to 15 days at 35-55°C, with a volatile-solids reduction of at least 38 percent.
Composting	A process conducted by the within-vessel, static-aerated-pile, or windrow method whereby the solid waste is maintained at minimum operating conditions of 40°C for five days. For four hours during this period, the temperature must exceed 55°C.
Lime Stabilization	A process in which sufficient lime is added to produce a pH of 12 after two hours of contact.
Other Methods	Other methods or operating conditions for significantly reducing pathogens may be acceptable if pathogens and vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the above methods.

Appendix D.2	
Processes to Further Reduce Pathogens	
Composting	A process conducted by the within-vessel, static-aerated-pile, or windrow method. If the within-vessel or static-aerated-pile method is used, the solid waste is maintained at operating conditions of 55°C or greater for three days. If the windrow method is used, the solid waste attains a temperature of 55°C or greater for at least 15 days during the composting period, and the windrow is turned at least five times during this high-temperature period.
Heat Drying	A process in which dewatered solid waste cake is dried by direct or indirect contact with hot gases and moisture content is reduced to 10 percent or less. Solid waste particles reach temperatures well in excess of 80° C or the wet-bulb temperature of the gas stream, in contact with the solid waste at the point where it leaves the dryer, is in excess of 80° C.
Heat Treatment	A process in which liquid waste is heated to temperatures of 180° C for 30 minutes.
Thermophilic Aerobic Digestion	A process in which liquid waste is agitated with air or oxygen to maintain aerobic conditions at residence times of 10 days at 55-60° C, with a volatile-solids reduction of at least 38 percent.
Other Methods	Other methods or operating conditions for further reducing pathogens may be acceptable if pathogens and vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the above methods.

Appendix D.2	
Processes to Further Reduce Pathogens	
Any of the processes listed below, used in conjunction with the processes described above, will further reduce pathogens. The processes listed below will not, however, reduce the attraction of disease vectors if they are not used in conjunction with one of the above processes, and therefore are not sufficient alone.	
Beta-Ray Irradiation	A process in which solid waste is irradiated with beta rays from an accelerator at dosages of at least 1.0 megarad at room temperature (ca. 20° C).
Gamma-Ray Irradiation	A process in which solid waste is irradiated with gamma rays from certain isotopes, such as ⁶⁰ Cobalt and ¹³⁷ Cesium, at dosages of at least 1.0 megarad at room temperature (ca. 20° C).
Pasteurization	A process in which solid waste is maintained for at least 30 minutes at a minimum temperature of 70° C.
Other Methods	Other methods or operating conditions may be acceptable if pathogens are reduced to an extent equivalent to the reduction achieved by any of the above add-on methods.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1119 (June 2007).

§3009. Vector Attraction Reduction—Appendix E

NOTE: Former §3009.Appendix E has moved to §3007.Appendix D.2.

Vector Attraction Reduction

A. When final compost is applied to a lawn or home garden, follow one of the requirements from Paragraphs C.1-3 listed below.

B. When final compost is applied to agricultural land, forest, a public contact site, or a reclamation site, follow one of the requirements from Paragraphs C.1-4 listed below.

C. Vector Attraction Reduction Requirements

1. The specific oxygen uptake rate (SOUR) for final compost treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20° C.

2. Final compost shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the composting material shall be higher than 40° C and the average temperature of the composting material shall be higher than 45° C.

3. The pH of composting material shall be raised to 12 or higher by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for two hours and then at 11.5 or higher for an additional 22 hours.

4. Final compost applied to the land surface shall be incorporated into the soil within six hours after application to the land, unless otherwise specified by the permitting authority. When final compost incorporated into the soil meets the conditions described in LAC 33:VII.3009.Appendix E.1, the final compost shall be applied to the land within eight hours after being discharged from the pathogen treatment process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1119 (June 2007).

§3011. Document to be Filed in the Parish Records Upon Final Closure of a Solid Waste Disposal Facility—Appendix F

Document to be Filed in the Parish Records Upon Final Closure of a Solid Waste Disposal Facility

[Name of permit holder] hereby notifies the public that the following described property was used for the disposal of solid waste. This site was closed on [date facility was closed]

in accordance with the *Louisiana Administrative Code*, Title 33, Part VII. Inquiries regarding the contents of [the facility] may be directed to [name of person with knowledge of the contents of the facility] at [address of person with knowledge of the contents of the facility].

Property Description

[Provide the specific description of the location of the facility]

Signature of Person Filing Parish Record

Typed Name and Title of Person Filing Parish Record

Date

(A true copy of the document must be certified by the parish clerk of court.)

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2537 (November 2000), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1119 (June 2007).

§3013. Appendix G

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repealed by the Office of the Secretary, Legal Affairs Division, LR 33:1120 (June 2007).

§3015. Examples of Agricultural Wastes That May be Managed Under Approved Best Management Practice Plans—Appendix H

Examples of Agricultural Wastes That May be Managed Under Approved Best Management Practice Plans

1. Sugar mill bagasse ash
2. Bagasse
3. Filter press mud from sugar mills
4. Chicken litter
5. Dead poultry carcasses
6. Rice hulls
7. Rice hull ash
8. Shells from crawfish and shellfish processing
9. Vegetable peels and waste from packing and processing
10. Cotton gin trash
11. Livestock and poultry litter, bedding, and composted livestock and poultry carcasses
12. Waste and wastewater from livestock, poultry, and fisheries packing and processing

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1120 (June 2007).

§3017. LPPA-LDEQ Work Group Agreement—Appendix I

LPPA-LDEQ Work Group Agreement

The Louisiana Pulp and Paper Association-Louisiana Department of Environmental Quality Solid Waste Beneficial Use Work Group (LPPA-LDEQ Work Group) established an agreement in May 1997 regarding the applicability of the Louisiana Solid Waste Regulations (LSWR) to a variety of materials produced by the pulp and paper industry. During these meetings, a number of preliminary agreements regarding the regulatory applicability of the LSWR to certain categories of materials were reached.

1. Group 1 materials are those that are to be used or reused as either:

a. ingredients, raw materials, or feedstocks in industrial processes to make products; or

b. effective substitutes for commercial products, provided that such uses do not involve application to the land.

The LPPA-LDEQ Work Group agreed that the Group 1 materials, when employed for these uses, are not being discarded and, thus, are not subject to the generator, transporter, or permitting requirements of the LSWR. A listing of the Group 1 materials and their uses are provided in Table 1 of this Appendix.

2. Group 2 materials are those that are to be applied to the land subject to the general approval of the LDEQ in accordance with this Appendix, and:

a. the specific approval of the Louisiana Department of Agriculture and Forestry (LDAF) for use as either a potting soil amendment, soil liming agent, soil nutritional supplement, or cover for timber land;

b. the Louisiana Department of Transportation and Development (LDOTD) standards of criteria for soil cement, road base material, or an aggregate for road surfaces; or

c. the specific approval of the LDEQ for use as ingredients for landfill or surface impoundment closure caps.

The LPPA-LDEQ Work Group agreed that the Group 2 materials, when employed for these uses, are not being discarded and, thus, are not subject to the generator, transporter, or permitting requirements of the LSWR. A listing of the Group 2 materials and their uses are provided in Table 2 of this Appendix.

3. Group 3 materials are those materials listed in Table 1 or Table 2 that are either presently located in a regulated solid waste landfill or surface impoundment or that will be temporarily stockpiled in a regulated solid waste landfill or surface impoundment prior to one of the uses specified in Table 1 or Table 2. The LPPA-LDEQ Work Group agreed that these Group 3 materials, when proposed to be removed for one of the corresponding uses indicated for the Group 1 or Group 2 materials would be subjected to a one-time, facility-specific Solid Waste Permit Minor Modification that would not require public notice. See the example in this Appendix for the agreed upon language for the permit condition to be added pursuant to the one-time, facility-specific Solid Waste Permit Minor Modification. The LPPA-LDEQ Work Group also agreed that these Group 3 materials, when removed from a regulated solid waste landfill or surface impoundment pursuant to the above noted permit condition and employed for the Group 1 or Group 2 uses, are not being discarded and, thus, are not subject to the generator, transporter, or permitting requirements of the LSWR upon such removal.

Only Group 2 materials, i.e., those materials destined for off-site applications to the land for such uses as soil amendments, supplements, or ingredients, are allowed to be stored on-site in a location outside of any regulated solid waste unit. Such storage shall only occur in those on-site areas where runoff is fully captured and treated by the mill's wastewater treatment system. Such materials destined for approved off-site applications shall only be held in temporary storage for a period not to exceed 24 months. No Group 3 materials, i.e., those that had been placed in, and subsequently removed from, regulated solid waste units, shall be stored on-site at any location outside of a regulated solid waste unit at any time.

Reporting Requirements. Group 1, 2, or 3 materials, when utilized or removed for one of the uses specified in Table 1 or 2, shall be reported on the Disposer Annual Report filed by the mill.

Table 1	
Group 1 Materials (Materials Not Applied to Land)	
Material Description	Uses
Wood-fired boiler ash	<ol style="list-style-type: none"> 1. Feedstock to produce activated carbon. 2. Feedstock to produce charcoal. 3. Waste solidification or stabilization agent. 4. Feedstock to produce portland cement. 5. Any other feedstock use or substitute for a commercial product (no land application).

Table 1 Group 1 Materials (Materials Not Applied to Land)	
Material Description	Uses
Coal-fired boiler ash	1. Waste solidification or stabilization agent. 2. Feed stock to produce portland cement. 3. Any other feedstock use or substitute for a commercial product (no land application).
Lime and lime mud	1. Feedstock to produce lime. 2. Feedstock to produce portland cement. 3. Any other feedstock use or substitute for a commercial product (no land application).
Slaker grit	1. Feedstock to produce portland cement.
Wood fiber (primary clarifier sludge)	1. Feedstock to produce absorbents. 2. Feedstock to produce tar paper or roofing felt. 3. Feedstock to produce filter paper. 4. Feedstock to produce insulation. 5. Use as ingredient or core material in structural and nonstructural concrete products. 6. Any other feed stock use or substitute for a commercial product (no land application).
Recycled fiber (recycled fiber residues)	1. Feed stock to produce absorbents. 2. Feedstock to produce tar paper or roofing felt. 3. Feedstock to produce filter paper. 4. Feedstock to produce insulation. 5. Use as ingredient or core material in structural and nonstructural concrete products. 6. Any other feedstock use or substitute for a commercial product (no land application).

Table 2 Group 2 Materials (Materials Applied to Land)		
Material Description	Uses	Specifications* That Shall Be Met for Such Use
Lime, lime mud, lime residues and slaker grit (produced by the pulp and paper industry in Louisiana)	Potting soil amendment	Those required by the LDAF and LDEQ for approval.
	Soil cement	Those required or adopted by the LDOTD.
	Soil liming agent	Those required by the LDAF for approval.
	Ingredient for landfill or surface impoundment closure caps	Those required by the LDEQ for approval.
	Any other use approved by the LDOTD, LDAF, and LDEQ	Those required by the LDAF and LDEQ for approval or required or adopted by the LDOTD.
Boiler gravel (that which becomes trapped in the bark on logs prior to debarking by the pulp and paper industry in Louisiana)	Road base material	None if used on-site; if used off-site, those required or adopted by the LDOTD.
	Aggregate for road surfaces	None if used on-site; if used off-site, those required or adopted by the LDOTD.
	Asphalt amendments	None if used on-site; if used off-site, those required or adopted by the LDOTD.
	Any other off-site use satisfying the criteria or standards of the LDOTD	If used off-site, those required or adopted by the LDOTD.
Wood fiber and recycled fiber (such as primary clarifier sludge produced by the pulp and paper industry in Louisiana)	Potting soil amendment	Those required by the LDAF and LDEQ for approval.
	Soil nutritional supplement	Those required by the LDAF and LDEQ for approval.
	Ingredient for landfill or surface impoundment closure caps	Those required by the LDEQ for approval.
	Any other use approved by the LDAF or LDOTD and LDEQ	Those required by the LDAF or LDOTD and LDEQ for approval.
	Cover for timber land	Those required by the LDAF and LDEQ for approval.
Mixtures containing boiler ash, boiler gravel, wood fiber, recycled fiber, lime residues, and slaker grit (produced by the pulp and paper industry in Louisiana)	Potting soil amendment	Those required by the LDAF and LDEQ for approval.
	Soil Liming Agent	Those required by the LDAF and LDEQ for approval.
	Any other use approved by the LDAF or LDOTD and LDEQ	Those required by the LDAF or LDOTD and LDEQ for approval.

Table 2 Group 2 Materials (Materials Applied to Land)		
Material Description	Uses	Specifications* That Shall Be Met for Such Use
Wood-fired boiler ash (produced by the pulp and paper industry in Louisiana)	Potting soil amendment	Those required by the LDAF and LDEQ for approval.
	Soil liming agent	Those required by the LDAF and LDEQ for approval.
	Soil nutritional supplement	Those required by the LDAF and LDEQ for approval.
	Ingredient for landfill or surface impoundment closure caps	Those required by the LDEQ for approval.
	Any other use approved by the LDAF or LDOTD and LDEQ	Those required by the LDAF or LDOTD and LDEQ for approval.
Coal-fired boiler ash (produced by the pulp and paper industry in Louisiana)	Potting soil amendment	Those required by the LDAF and LDEQ for approval.
	Soil liming agent	Those required by the LDAF and LDEQ for approval.
	Soil nutritional supplement	Those required by the LDAF and LDEQ for approval.
	Ingredient for landfill or surface impoundment closure caps	Those required by the LDEQ for approval.
	Any other use approved by the LDAF or LDOTD and LDEQ	Those required by the LDAF or LDOTD and LDEQ for approval.

Table 2 Group 2 Materials (Materials Applied to Land)		
Material Description	Uses	Specifications* That Shall Be Met for Such Use
	Ingredient for landfill / surface impoundment closure caps	Those required by the LDEQ for approval.
	Road base material	None if used on-site; if used off-site, those required or adopted by the LDOTD.
	Aggregate for road surfaces	None if used on-site; if used off-site, those required or adopted by the LDOTD.
	Asphalt amendments	None if used on-site; if used off-site, those required or adopted by the LDOTD.
	Any other on-site or off-site use approved by the LDAF or LDOTD and LDEQ	Those required by the LDAF or LDOTD and LDEQ, or LDEQ only, as appropriate, for approval.

*The specifications and approval from LDEQ consist of those that are set forth in the LDEQ letter received in response to this LPPA request for reclassification dated June 18, 1999.

Example For

Permit Condition Language For The One-Time, Facility-Specific Minor Permit Modification Addressing Materials Removed From LSWR Regulated Surface Impoundments Or Landfills In Louisiana's Pulp And Paper Industry

In accordance with LAC 33:VII.303.A.11, when the [description of material], which has not been commingled or contaminated with dissimilar solid wastes, is removed from the [name of facility-specific surface impoundment or landfill], and subsequently used as:

1. Louisiana Department of Agriculture and Forestry (LDAF) approved potting soil amendments, soil liming agents, soil nutritional supplements, or cover for timber land;

2. soil cement, road base materials, or aggregate for road surfaces that satisfy the standards or criteria approved by the Louisiana Department of Transportation and Development (LDOTD); or

3. Louisiana Department of Environmental Quality (LDEQ) approved ingredients for landfill or surface impoundment closure caps; such material, when managed in accordance with all other applicable laws, regulations, and conditions, is no longer considered to be discarded and, thus, is not subject to the generator, transporter, or permitting requirements of the Louisiana Solid Waste Regulations (LSWR).

However, while such material is present in the [name of facility-specific surface impoundment or landfill], it remains subject to all applicable requirements of the LSWR until such removal occurs.

The total tonnage of this material removed from the regulated unit for any such use shall be reported on the facility's Annual Disposer's Solid Waste Report. Any proposed new use for the material must have the approval of the LDAF or LDOTD and LDEQ, or the LDEQ only, as appropriate.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1120 (June 2007).

Herman Robinson, CPM
Executive Counsel

0706#023

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

PPO, EPO, and MCO Plans of Benefits
Lifetime Maximum Benefit
(LAC 32:III:701, V:701, IX:701)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO, EPO, and MCO Plan Documents to change the lifetime maximum benefit for all benefits, including outpatient prescription drugs, to \$5,000,000 per person, deleting the separate lifetime maximum for outpatient prescription drugs.

Accordingly, OGB hereby gives adopts the following Rule to become effective July 1, 2007.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 7. Schedule of Benefits—PPO

§701. Comprehensive Medical Benefits

A. Eligible expenses for professional medical services are reimbursed on a fee schedule of maximum allowable charges. All eligible expenses are determined in accordance with plan limitations and exclusions.

Lifetime maximum for all benefits, including outpatient prescription drug benefits, per person	\$5,000,000
Lifetime maximum for outpatient prescription drug benefits, per person	DELETED

A.1. - D. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits, LR 25:1843 (October 1999), amended LR 26: 488 (March 2000), LR 27:719, 720, 722 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1887 (November 2001), LR 28:2345 (November 2002), LR 29:340, 342, 343 (March 2003), repromulgated LR 29:578 (April 2003), amended LR 30:1192 (June 2004), LR 32:1897 (October 2006), LR 33:1122 (June 2007).

Part V. Exclusive Provider Organization (EPO) Plan of Benefits

Chapter 7. Schedule of Benefits—EPO

§701. Comprehensive Medical Benefits

A. Eligible expenses for professional medical services are reimbursed on a fee schedule of maximum allowable charges. All eligible expenses are determined in accordance with plan limitations and exclusions.

Lifetime maximum for all benefits, including outpatient prescription drug benefits, per person	\$5,000,000
Lifetime maximum for outpatient prescription drug benefits, per person	DELETED

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1823 (October 1999), amended LR 26:487 (March 2000), LR 27:717 and 719 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1886 (November 2001), LR 28:476 (March 2002), LR 28:2342, 2343 (November 2002), repromulgated LR 28:2509 (December 2002), amended LR 29:335, 337, 338 (March 2003), LR 30:1190 (June 2004), LR 32:1869 (October 2006), LR 33:1122 (June 2007).

**Part IX. Managed Care Option (MCO) Plan of Benefits
Chapter 7. Schedule of Benefits—MCO**

§701. Comprehensive Medical Benefits

A. Eligible expenses for professional medical services are reimbursed on a fee schedule of maximum allowable charges. All eligible expenses are determined in accordance with plan limitations and exclusions.

1. Lifetime Maximum Benefits

Lifetime maximum for all benefits, including outpatient prescription drug benefits, per person	\$5,000,000
Lifetime maximum for outpatient prescription drug benefits, per person	DELETED

A.2. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:901 (June 2003), amended LR 30:435 (March 2004), LR 33:1123 (June 2007).

Tommy D. Teague
Chief Executive Officer

0706#041

RULE

**Department of Health and Hospitals
Board of Nursing**

Faculty and Faculty Organization (LAC 46:XLVII.3515)

The Louisiana State Board of Nursing has amended LAC 46:XLVII.3515 Faculty and Faculty Organization in accordance with R.S. 37:918, R.S. 37:919 and R.S. 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 35. Nursing Education Programs

§3515. Faculty and Faculty Organization

A. Faculty Body. There shall be qualified faculty adequate in numbers to provide a safe, effective

faculty/student/client ratio not to exceed 10 students to one faculty member (10:1) in a clinical setting and to implement the program in nursing in relation to its stated philosophy, purposes and objectives. The number and size of classes taught each year, and the number of community agencies and their geographic locations are considered in determining the number of required faculty (see Requirements for Preceptorship; §3541.A-J, for related standard).

B. Qualifications

1. The program head and each nurse faculty member shall hold a current license to practice as a registered nurse in Louisiana and shall be appointed in compliance with state and federal laws on non-discrimination.

2. The program head of a baccalaureate program shall hold a minimum of bachelor's and master's degrees in nursing, or its equivalent, and an earned doctorate, and shall have a minimum of three years experience in the areas of nursing education and three years in clinical practice.

3. The program head of an associate degree or diploma program shall hold a minimum of bachelor's and master's degrees in nursing and shall have a minimum of three years experience in the areas of nursing education and three years in clinical practice.

4. The nurse faculty shall hold bachelor's and master's degrees in nursing. Requests for academic equivalency shall be approved on an individual basis (see LAC 46:XLVII.3515.B.6 for related standard).

5. Nurse faculty shall have a minimum of two years of nursing practice as a registered nurse in a clinical setting prior to their appointment.

6. Nurse faculty shall maintain current knowledge and skills in areas of responsibility and provide documentation of same.

7. Exceptions to the academic qualifications for nurse faculty shall be justified and approved under board-established guidelines. Such exceptions, if granted by the board shall be:

a. baccalaureate in nursing prepared individuals who are not enrolled in a masters' in nursing program are limited to a maximum of two calendar years in any consecutive five year period;

b. baccalaureate in nursing prepared individuals who are enrolled in a masters' in nursing program shall be approved annually on an individual basis in accordance with current board guidelines. Exceptions may be granted to each individual for a maximum of four calendar years.

8. The number of faculty exceptions shall not exceed 20 percent of the number of full-time nurse faculty employed (not FTE) in the program.

C. A faculty resignation rate that exceeds one third of the full-time nurse faculty employed by the program (not FTE) in an annual report shall be reported and justified in the annual school report.

D. Nurse faculty shall function under the same policies established for other faculty in the parent institution.

E. Policies for nurse faculty shall include but not be limited to:

1. qualifications for the position;
2. contract or letter of appointment to delineate terms of appointment, functions and responsibilities of the position; and

3. salary scale, promotion, retirement, vacation, sick leave, leave of absence for personal and professional growth and health care benefits.

F. A written plan for performance evaluation of faculty shall be established and utilized on a continuing basis.

G. A nurse faculty organization shall be established consistent with the parent institution and shall have clearly delineated bylaws.

H. Faculty workloads shall allow time for class and laboratory preparation, teaching, program revision, improvement in teaching methods, guidance of students, participation in faculty organizations and committees, research and scholarly endeavors, attendance at professional meetings and participation in continuing education programs.

I. Nurse faculty shall select, teach, guide and evaluate all learning experiences in the classroom and clinical facilities.

J. Nurse faculty shall be within the clinical facility during the learning experiences of students unless the students are observing only or engaged in a board-approved preceptor or community-based experience.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:186 (April 1977), amended LR 10:1025 (December 1984), LR 12:678 (October 1986), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), repromulgated LR 24:1293 (July 1998), amended LR 26:2789 (December 2000), repromulgated LR 27:851 (June 2001), amended LR 33:1123 (June 2007).

Barbara L. Morvant, MN, RN
Executive Director

0706#048

RULE

Department of Health and Hospitals Board of Pharmacy

Pharmacy Practice (LAC 46:LIII.Chapters 3-25)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended several Chapters.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 3. Board Hearings

§343. Board Decisions

A. The board's decision shall be based on finding(s) of fact and conclusion(s) of law. The board's decision shall be based on a preponderance of the evidence presented at a formal hearing, together with the board's determination of any appropriate sanctions, by an affirmative majority record vote of the board members participating in the decision process. Decisions shall be recorded and made a part of the record.

1 - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2081 (October 2003), effective January 1, 2004, amended LR 33:1124 (June 2007).

§351. Administrative Review

A. - B.4. ...

C. Time. The board or the hearing officer shall grant or deny the petition for rehearing within 30 days after its submission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2082 (October 2003), effective January 1, 2004, amended LR 33:1124 (June 2007).

§361. Cease and Desist Orders; Injunctive Relief

A. The board is empowered to issue an order to any person or firm engaged in any activity, conduct, or practice constituting a violation of the Louisiana Pharmacy Practice Act or the regulations promulgated thereto, directing such person or firm to forthwith cease and desist from such activity, conduct, or practice.

B. If the person or firm to whom the board directs a cease and desist order does not cease and desist the prohibited activity, conduct, or practice within the timeframe directed by said order, the board may seek, in any court of competent jurisdiction and proper venue, a writ of injunction enjoining such person or firm from engaging in the activity, conduct, or practice.

C. Upon proper showing of the board that such person or firm has engaged in the prohibited activity, conduct, or practice, the court shall issue a temporary restraining order restraining the person or firm from engaging in unlawful activity, conduct, or practices pending the hearing on a preliminary injunction, and in due course a permanent injunction shall be issued after a hearing, commanding the cessation of the unlawful activity, conduct, or practices complained of.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1124 (June 2007).

Chapter 5. Pharmacists

Subchapter A. Licensure Procedures

§505. Licensure

A. - A.2. ...

3. Renewal. The board shall make the annual pharmacist license renewal application available to all currently licensed Louisiana pharmacists prior to November 1. The completed application along with the appropriate fee shall be submitted to the board by December 31 of each year. A pharmacist's renewal of licensure shall be displayed in the principal location where the pharmacist is engaged in the practice of pharmacy and in such a manner that said renewal may be seen by patrons. A renewal of licensure shall serve as proof of licensure and a pharmacist's license to practice pharmacy for that year of issuance.

3.a. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2083 (October 2003), effective January 1, 2004, amended LR 33:1124 (June 2007).

§507. Continuing Education Program

A. ...

B. Definitions

1. ACPE—Accreditation Council for Pharmacy Education.

2. - 3. ...

C. Requirements

1. A minimum of 1 1/2 ACPE or board-approved CPE units, or 15 hours, shall be required each year as a prerequisite for pharmacist licensure renewal. Of this number, no less than 3/10 ACPE or board-approved CPE units, or three hours, shall be acquired through live presentations, as designated by ACPE or the board. Alternatively, should a pharmacist choose to not acquire at least 3/10 ACPE or board-approved CPE units, or three hours, through live presentations, then he shall acquire an additional 5/10 ACPE or board-approved CPE units, or five hours, through any other acceptable method, over and above the minimum requirement, for a total of two ACPE or board-approved CPE units, or 20 hours.

2. - 3. ...

4. When deemed appropriate and necessary by the board, the number of hours to be acquired through live presentations as designated by ACPE or the board may be increased. When so deemed, the board shall notify all licensed pharmacists prior to the beginning of the year in which the CPE is required.

D. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 23:1306 (October 1997), LR 29:2083 (October 2003), effective January 1, 2004, amended LR 33:1125 (June 2007).

§514. Impairment

A. *Impairment* or *Impaired*—a condition that causes an infringement on the ability of a person to practice, or assist in the practice, of pharmacy sufficient to pose a danger to the public. Impairment may be caused by, but is not limited to, alcoholism, substance abuse or addiction, mental illness, or physical illness.

B. Pharmacists shall be non-impaired.

C. Pharmacists who have knowledge another pharmacist, pharmacy intern, pharmacy technician, or pharmacy technician candidate is impaired shall notify the board of that fact as soon as possible.

D. Pharmacists may be subject to a medical evaluation for impairment by a board-approved addictionist, as authorized by the Louisiana Pharmacy Practice Act, R.S. 37:1161 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1125 (June 2007).

Subchapter B. Professional Practice Procedures

§519. State of Emergency

A. - A.1.b. ...

2. A pharmacist not licensed in Louisiana, but currently licensed in another state, may dispense prescription medications in the affected parish or parishes during the time a state of emergency exists when:

a. the pharmacist has some type of identification to verify current unrestricted licensure in another state;

b. the pharmacist is engaged in a legitimate relief effort during the emergency period; and

c. the pharmacist and pharmacy notify the board of their presence and approximate location in the affected parish or parishes prior to the engagement of professional practice.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2085 (October 2003), effective January 1, 2004, amended LR 33:1125 (June 2007).

§523. Collaborative Drug Therapy Management

A. Definitions. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

Board—the Louisiana Board of Pharmacy.

Collaborative Drug Therapy Management—that practice in which a pharmacist, to the extent authorized by a collaborative drug therapy management agreement, voluntarily agrees with a physician registered with the Louisiana State Board of Medical Examiners, to manage the disease specific drug therapy of one or more patients of such physician, within a predetermined range of medication selected by the physician and set forth in a written protocol. Drug therapy management shall be limited to:

a. monitoring and modifying a disease specific drug therapy;

b. collecting and reviewing patient history;

c. obtaining and reviewing vital signs, including pulse, temperature, blood pressure, and respiration;

d. ordering, evaluating, and applying the results of laboratory tests directly related to the disease specific drug therapy being managed under written protocol, provided such tests do not require the pharmacist to interpret such testing or formulate a diagnosis;

e. administration of vaccines to a patient 16 years of age or older by a pharmacist authorized to administer vaccines by the board;

f. providing up to a single seven day supply of a single drug after all refills authorized on the original prescription issued to the patient by the patient's physician have been dispensed; and

g. providing disease or condition specific patient education and counseling.

Collaborative Drug Therapy Management Agreement—a written document in which a pharmacist and a physician identify the terms and conditions under which they voluntarily agree to participate in collaborative drug therapy management.

Controlled Substance—any substance defined, enumerated, or included in federal or state statute or regulations, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such statute or regulations.

Disease Specific Drug Therapy—a specific drug or drugs prescribed by a physician for a specific patient of such physician that is generally accepted within the standard of care for treatment of one of the following diseases or conditions:

- a. treatment and prevention of arterial and venous clot propagation and disease, i.e., anti-coagulant therapy;
- b. treatment and prevention of diabetes;
- c. adjustment of medication administered by inhalant for treatment of asthma;
- d. treatment and prevention of dyslipidemia;
- e. smoking cessation therapy;
- f. administration of disease specific vaccines to patients 16 years of age or older; and
- g. such other drugs, diseases or conditions as may be subsequently recommended by the advisory committee and approved by the board.

Drug—

- a. any substance recognized as a drug in the official compendium, or supplement thereto, designated by the board for use in the diagnosis, cure, mitigation, treatment or prevention of diseases in humans or animals;
- b. any substance intended for use in the diagnosis, cure, mitigation, treatment or prevention of diseases in humans or other animals; or
- c. any substance other than food intended to affect the structure or any function of the body of humans or other animals.

Drugs of Concern—a drug that is not a controlled substance but which is nevertheless defined and identified, in accordance with the procedures established by the Louisiana Prescription Monitoring Program Act, R.S. 40:1001-1014, as a drug with the potential for abuse.

Pharmacist—an individual currently licensed by the board to engage in the practice of pharmacy in the state.

Physician—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a current, unrestricted license duly issued by the Louisiana State Board of Medical Examiners.

Prescribe—a request or order transmitted in writing, orally, electronically or by other means of telecommunication for a drug that is issued in good faith, in the usual course of professional practice and for a legitimate medical purpose, by a physician for the purpose of correcting a physical, mental, or bodily ailment of his patient.

Written Protocol—a written set of directives or instructions containing each of the components specified elsewhere in this Section for collaborative drug therapy management of disease specific drug therapy for a specific patient. The written protocol shall be signed by the physician and represents the physician orders for the collaborative drug therapy management to be provided to the patient.

B. Registration

1. Eligibility

a. No pharmacist shall engage in collaborative drug therapy management in this state until registered with the

board in accordance with this Section. To be eligible for registration, a pharmacist shall, as of the date of the application:

i. possess a current, unrestricted license to practice pharmacy issued by the board and not be the subject of a pending investigation or complaint by the board or by the pharmacy licensing authority of any other state or jurisdiction;

ii. be actively engaged in the practice of pharmacy in this state and the provision of pharmacist care similar to the activities anticipated in the collaborative drug therapy management agreement.

b. A pharmacist shall be deemed ineligible for registration of collaborative drug therapy management who:

i. does not possess the qualifications prescribed by §523.B.1(a);

ii. has voluntarily surrendered or had suspended, revoked, or restricted, his controlled dangerous substances license, permit, or registration (state or federal);

iii. has had a pharmacy license suspended, revoked, placed on probation or restricted in any manner by the board or by the pharmacy licensing authority of any other state or jurisdiction;

iv. has had an application for pharmacist licensure rejected or denied; or

v. has been, or is currently in the process of being denied, terminated, suspended, refused, limited, placed on probation or under other disciplinary action with respect to participation in any private, state, or federal health insurance program.

c. The board may, in its discretion, waive the limitations referenced in Subparagraph B.1.b of this Section on a case-by-case basis.

d. The board may deny registration to an otherwise eligible pharmacist for any of the causes enumerated in R.S. 37:1241.A, or any other violation of the provisions of the Pharmacy Practice Act or the board's rules.

e. The burden of satisfying the board as to the eligibility of a pharmacist for registration to engage in collaborative drug therapy management shall be upon the pharmacist. A pharmacist shall not be deemed to possess such qualifications unless and until the pharmacist demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

2. Application and Issuance

a. Application for registration to engage in collaborative drug therapy management shall be made upon forms supplied by the board. Application forms and instructions may be obtained from the board's website at www.labp.com or by contacting the board's office.

b. An application for registration to engage in collaborative drug therapy management shall include:

i. the pharmacist's full name, license number, mailing address of record, and emergency contact information;

ii. a description of the pharmacist's professional education that qualifies him to engage in collaborative drug therapy management activities described in the agreement;

iii. proof documented in a form satisfactory to the board that the pharmacist possesses the qualifications set forth in this Section;

iv. a fully executed copy of a collaborative drug therapy management agreement conforming to the requirements of this Section;

v. confirmation the pharmacist shall only engage in collaborative drug therapy management to the extent detailed in the agreement and in accordance with the rules of the board; and

vi. such other information and documentation as the board may require to evidence qualification for registration.

c. The board may reject or refuse to consider any application for registration which is not complete in every detail required by the board or may refuse to consider a collaborative drug therapy management agreement which fails to comply with the minimum requirements of this Section. The board may, in its discretion, require a more detailed or complete response to any request for information set forth in the application as a condition to consideration.

d. A pharmacist seeking registration to engage in collaborative drug therapy management shall be required to appear before the board or its designee if the board has questions concerning the nature or scope of the pharmacist's application, finds discrepancies in the application, or for other good cause as determined by the board.

e. When all the qualifications, requirements, and procedures of this Section are met to the satisfaction of the board, the board shall approve and register a pharmacist to engage in collaborative drug therapy management. Registration of authority to engage in collaborative drug therapy management shall not be effective until the pharmacist receives notification of approval from the board.

f. Although a pharmacist shall notify the board each time he intends to engage in collaborative drug therapy management with a physician other than the physician identified in the pharmacist's original application, registration with the board is only required once. The board shall maintain a list of pharmacists who are registered to engage in collaborative drug therapy management.

g. Each pharmacist registered to engage in collaborative drug therapy management shall be responsible for updating the board within 10 days in the event of any change in the information recorded in the original application.

3. Expiration of Registration; Renewal

a. A pharmacist's registration to engage in collaborative drug therapy management with a physician shall terminate and become void, null and without effect upon the earlier of:

i. death of either the pharmacist or physician;

ii. loss of license of either the pharmacist or physician;

iii. disciplinary action limiting the ability of either the pharmacist or the physician to enter into collaborative drug therapy management;

iv. notification to the board that either the pharmacist or physician has withdrawn from collaborative drug therapy management;

v. a finding by the board of any of the causes that would render a pharmacist ineligible for registration; or

vi. expiration of a pharmacist's license or registration to engage in collaborative drug therapy

management for failure to timely renew such license or registration.

b. Registration of authority to engage in collaborative drug therapy management shall expire annually on the same day as a pharmacist's license unless renewed by the pharmacist by submitting an application to the board upon forms supplied by the board, together with verification of the accuracy of registration and collaborative drug therapy management agreement information on file with the board. An application for registration renewal shall be made part of and/or accompany a pharmacist's renewal application for pharmacist licensure.

c. The timely submission of an application for renewal of a registration shall operate to continue the expiring registration in effect pending renewal of registration or other final action by the board on such application for renewal.

C. Advisory Committee. The Collaborative Drug Therapy Management Advisory Committee, constituted as provided for in LAC 46:XLV.7417, shall assist the Board of Medical Examiners and the Board of Pharmacy on matters relative to collaborative drug therapy management. The President of the Board of Pharmacy shall appoint a pharmacist to serve on the committee, and said pharmacist shall serve at the pleasure of the Board of Pharmacy.

D. Standards of Practice

1. Authority, Responsibility, and Limitations of Collaborative Drug Therapy Management

a. A pharmacist registered with the board under this Section may engage in collaborative drug therapy management with a physician:

i. to the extent authorized by a collaborative drug therapy management agreement filed with approved by the board; and

ii. in accordance with a patient specific, drug specific, disease specific written protocol, satisfying the requirements of this Section.

b. A pharmacist engaged in collaborative drug therapy management shall:

i. retain professional responsibility to his patient for the management of his drug therapy;

ii. establish and maintain a pharmacist-patient relationship with each patient subject to the collaborative drug therapy management agreement;

iii. be geographically located to be physically present to provide pharmacist care to a patient subject to collaborative drug therapy management;

iv. provide on a schedule defined in the written protocol, a periodic status report on the patient, including but not limited to, any problem, complication, or other issues relating to patient non-compliance with drug therapy management; and

v. be available through direct telecommunication for consultation, assistance, and direction.

c. A pharmacist's registration to engage in collaborative drug therapy management with a physician is personal to the pharmacist. A registered pharmacist shall not allow another pharmacist or any other individual to exercise the authority conferred by such registration. A registered pharmacist shall not engage in collaborative drug therapy management with a non-physician or with any physician

who is not a party to the pharmacist's collaborative drug therapy management agreement on file with the board.

d. Collaborative drug therapy management shall only be utilized for those conditions or diseases identified in, and in the manner specified by, this Section. Additional conditions or diseases for which there are generally accepted standards of care for disease specific drug therapy may be identified by the advisory committee and approved by the board.

e. Only a pharmacist who holds the academic degree of Doctor of Pharmacy, which degree provided specific training in the area of anti-coagulant drug therapy, shall engage in collaborative drug therapy management in such particular area of practice covered by a collaborative drug therapy management agreement. The board may, in its discretion, grant an exception to this limitation on a case-by-case basis to a pharmacist who does not possess the academic degree required by this Section upon the affirmative recommendation and advice of the advisory committee that the pharmacist possesses the equivalent or other acceptable advanced training in the area of practice covered by the agreement.

f. The scope of the collaborative drug therapy management shall not include:

- i. any patient of the physician for whom such physician has not prepared a patient specific, drug specific, disease specific written protocol;
- ii. drug therapy management of more than one specific disease or condition. Administration of a vaccine or smoking cessation therapy is excepted from this provision;
- iii. drug therapy management of any patient by more than one registered physician and one pharmacist;
- iv. any patient under the age of 18 years of age. Administration of a vaccine or smoking cessation therapy is excepted from this provision.
- v. pregnant or nursing mothers;
- vi. initiation or discontinuance of drug therapy by a pharmacist, except as specified in the written protocol;
- vii. the management of controlled substances or drugs of concern; or
- viii. substitution of a drug prescribed by a physician without the explicit written consent of such physician.

2. Informed Consent

a. A pharmacist shall not engage in collaborative drug therapy management of a patient without the patient's written informed consent.

b. In addition to the requirements provided by law for obtaining a patient's informed consent, each patient who is subject to a collaborative drug therapy management agreement shall be:

- i. informed of the collaborative nature of drug therapy management for the patient's specific medical disease or condition and provided instructions and contact information for follow-up visits with the pharmacist and physician;
- ii. informed he may decline to participate in a collaborative drug therapy management practice and may withdraw at any time without terminating the physician-patient or pharmacist-patient relationship; and
- iii. provided written disclosure of any contractual or financial arrangement with any other party that may

impact one of the party's decision to participate in the agreement.

c. All services provided pursuant to a collaborative drug therapy management agreement shall be consistent with the agreement and shall be performed in a setting which insures patient privacy and confidentiality.

3. Collaborative Drug Therapy Management Agreement

a. A collaborative drug therapy management agreement shall, at a minimum, include:

- i. the name, professional license number, address or addresses, telephone/cell phone number, e-mail address, and emergency contact information for the pharmacist and physician, and the date of signing and termination of the agreement;
- ii. a description of the manner and circumstances under which the pharmacist and physician shall engage in collaborative drug therapy management;
- iii. the condition or disease to be managed;
- iv. the specific drug or drugs to be utilized for such condition or disease;
- v. the drug therapy management activities, as defined in this Section, to be performed by the pharmacist as authorized by the physician;
- vi. the procedure to be followed by the parties for drug therapy management and a plan of accountability defining the respective responsibilities of the pharmacist and physician;
- vii. a plan for reporting and documenting drug therapy management activities in the pharmacy and medical records and schedule by which such are to take place. A pharmacist shall submit a report to the collaborating physician at least every 30 days, or more frequently if warranted by clinical conditions, regarding the status of a patient's collaborative drug therapy management, with such report made a part of the pharmacy record for such patient;
- viii. a plan for record keeping, record sharing, and record storage. The agreement shall acknowledge all collaborative drug therapy management records shall be treated as and governed by the laws applicable to physician medical records;
- ix. acknowledgement each patient subject to the agreement shall be notified that a collaborative drug therapy management agreement exists, describes the procedures for obtaining informed consent of such patient, and the plan to address patient needs when both the pharmacist and physician are absent from the practice setting; and
- x. the procedure and schedule for reviewing and assessing the quality of care provided to each patient subject to collaborative drug therapy management under written protocol.

b. In the event the physician authorizes the pharmacist to order, evaluate, and apply the results of a laboratory test or tests directly related to disease specific drug therapy being managed under written protocol, the agreement shall identify the specific test or tests and describe the plan for securing such testing.

c. The agreement shall affirm that:

- i. collaborative drug therapy management shall be in conformity with generally accepted standards of care for treatment of a patient's specific disease or condition;

ii. all services provided pursuant to a collaborative drug therapy management shall be consistent with the agreement and performed in a setting that insures patient privacy and confidentiality; and

iii. a copy of the agreement shall be maintained on site by the respective parties.

d. The agreement may include the identity of one back-up pharmacist possessing the qualifications for collaborative drug therapy management required by this Section, who shall serve in the absence of the registered pharmacist to the agreement. The identifying information specified in this Section shall be provided for such pharmacist, along with and acknowledgement of responsibility to adhere to the same obligations and commitments imposed on the registered pharmacist to the agreement, as evidenced by a dated signature.

e. An agreement is valid for a period of time not to exceed one year. A collaborating pharmacist shall insure that a collaborative drug therapy management agreement is annually reviewed, updated as appropriate, signed by the pharmacist and physician.

f. Each registered pharmacist is responsible for updating the board within 10 days in the event any of the information required and submitted in accordance with this Section changes after the board has approved the agreement.

4. Written Protocols

a. A separate protocol shall be written for each patient to be managed by collaborative drug therapy management. A copy of each written protocol shall be:

i. provided to the collaborating physician and pharmacist;

ii. made part of the patient's pharmacy record; and

iii. appended by the pharmacist to the collaborative drug therapy management agreement with the physician and maintained in a separate file at the pharmacist's practice site listed on the pharmacist's registration on file with the board.

b. A physician shall develop a patient specific written protocol for a particular patient or utilize a standard written protocol, incorporating what patient specific deviations, if any, the physician may deem necessary or appropriate for such patient. In either event, a written protocol for disease specific drug therapy shall adhere to generally accepted standards of care and shall identify, at a minimum:

i. the pharmacist, the physician, and telephone number and other contact information for each;

ii. the patient's name, address, gender, date of birth, and telephone number;

iii. the disease or condition to be managed;

iv. the disease specific drug or drugs to be utilized;

v. the type and extent of drug therapy management the physician authorizes the pharmacist to perform;

vi. the specific responsibilities of the pharmacist and physician;

vii. the procedures, criteria, or plan the pharmacist is required to follow in connection with drug therapy management;

viii. the specific laboratory test or tests, if any, directly related to drug therapy management the physician authorizes the pharmacist to order and evaluate;

ix. the reporting and documentation requirements of the pharmacist and physician respecting the patient and schedule by which such are to take place;

x. the conditions and events upon which the pharmacist and physician are required to notify one another; and

xi. procedures to accommodate immediate consultation by telephone or direct telecommunication with, between or among the pharmacist, physician, and the patient.

c. Each written protocol utilized for collaborative drug therapy management of a patient shall be reviewed annually by the collaborating pharmacist, or more frequently as such pharmacist deems necessary, to address patient needs and to insure compliance with the requirements of this Section. A collaborating pharmacist's signature and date of review shall be noted on the written protocol and maintained by the pharmacist in accordance with this Section.

5. Administration of Vaccines

a. A collaborative drug therapy management agreement which includes the administration by a pharmacist of a patient specific order for administration of a disease specific vaccine shall include documentation of the pharmacist's authority to administer such medications, pursuant to §521 of the board's rules.

b. In addition to the requirements of this Section, the following information shall be included in any written protocol for any patient receiving a vaccination from a collaborating pharmacist:

i. the identity of the drug, dose, and route of administration;

ii. the date of the original order and the date of any authorized subsequent dose or administration;

iii. a statement the patient or patient's tutor, curator or legal guardian shall be provided the manufacturer's vaccine information statement with each dose;

iv. confirmation written policies and procedures for disposal of used or contaminated supplies shall be utilized;

v. a requirement for the pharmacist to immediately report any adverse event to the collaborating physician and such governmental entities as may be directed or required by the Louisiana Department of Health and Hospitals; and

vi. confirmation the physician shall be promptly available for consultation regarding contraindications and adverse reactions in said physician's patient.

c. This Section shall not prevent or restrict the Louisiana Department of Health and Hospitals, Office of Public Health, or any other governmental entity of this state from administering vaccines under the authority of other laws of this state.

6. Additional Refills. Whether or not and the extent to which a collaborating physician may authorize a collaborating pharmacist to dispense up to a single seven day supply of a single drug for a single patient utilized for disease specific drug therapy after all refills authorized for such physician's patient have been dispensed, shall be

specifically included in the collaborative drug therapy management agreement with such pharmacist, as well as the written protocol applicable to a specific patient.

7. Reporting Obligations and Responsibilities

a. A pharmacist engaged in collaborative drug therapy management shall notify the board, in writing, within 10 days of the occurrence or discovery of:

i. the death of a patient which was, in the pharmacist's opinion, directly related to drug therapy management;

ii. complications or errors which are, in the pharmacist's opinion, directly related to drug therapy management;

iii. a pharmacist's termination of a collaborative drug therapy management agreement with a physician and applicable reasons;

iv. a physician's termination of a collaborative drug therapy management agreement with a pharmacist and applicable reasons;

v. a patient's election to withdraw from participation in collaborative drug therapy management and applicable reasons;

vi. his or a physician's failure or refusal to abide by the terms, conditions, or restrictions of a collaborative drug therapy management agreement or written protocol and applicable reasons;

vii. the pharmacist's retirement or withdrawal from active practice in this state or relocation to another state to engage in pharmacy practice; or

viii. the revocation, suspension, or other restriction imposed on a physician's license which would prohibit the physician from entering into a collaborative drug therapy management agreement.

b. A pharmacist engaged in collaborative drug therapy management shall comply with reasonable requests by the board for personal appearances or information relative to the functions, activities, and performance of a pharmacist or physician engaged in collaborative drug therapy management.

8. Records

a. The following information shall be included in the pharmacy's record of a patient subject to collaborative drug therapy management:

i. the prescription or order implementing collaborative drug therapy management;

ii. the written protocol applicable to the patient evidencing documentation of annual review;

iii. documentation of all activities performed by the pharmacist;

iv. consultations and reports by and between the pharmacist and physician; and

v. documentation of the patient's informed consent to collaborative drug therapy management.

b. A pharmacist registered to engage in collaborative drug therapy management shall maintain and produce, upon inspection conducted by or at the request of a representative of the board, a copy of any or all collaborative drug therapy management agreements, amendments thereto, applicable written protocols and such other records or documentation as may be requested by the board to assess a pharmacist's compliance with requirements of this Section, the Pharmacy Practice Act, or other applicable board rules.

E. Sanctions

1. Action against Registration. For noncompliance with any of the provisions of this Section, the board may, in addition to or in lieu of administrative proceedings against a pharmacist's license, suspend or revoke a pharmacist's registration to engage in collaborative drug therapy management, or may impose such terms, conditions, or restrictions thereon as the board may deem necessary or appropriate.

2. Action against Pharmacist License. Any violation or failure to comply with the provisions of this Section shall be deemed a violation R.S. 37:1241.A.1, as well as a violation of any other applicable provision of R.S. 37:1241.A, providing cause for the board to take any of the actions permitted in R.S. 37:1241.A against the pharmacist's license.

3. Unauthorized Practice. Nothing in this Section shall be construed as authorizing a pharmacist to issue prescriptions, exercise independent medical judgment, render diagnoses, provide treatment, assume independent responsibility for patient care, or otherwise engage in the practice of medicine as defined in the Louisiana Medical Practice Act. Any person who engages in such activities, in the absence of medical licensure issued by the Louisiana State Board of Medical Examiners, shall be engaged in the unauthorized practice of medicine and subject to the penalties prescribed by the Louisiana Medical Practice Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1164(37)(b)(i).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1125 (June 2007).

Chapter 7. Pharmacy Interns

§705. Practical Experience

A. - B.1. ...

2. A pharmacy intern shall not practice in a permitted pharmacy site that is on probation with the board. A pharmacy intern shall not practice under the supervision of a pharmacist whose license is on probation with the board.

C. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2086 (October 2003), effective January 1, 2004, amended LR 33:1130 (June 2007).

§707. Impairment

A. *Impairment or Impaired*—a condition that causes an infringement on the ability of a person to practice, or assist in the practice, of pharmacy sufficient to pose a danger to the public. Impairment may be caused by, but is not limited to, alcoholism, substance abuse or addiction, mental illness, or physical illness.

B. Pharmacy interns shall be non-impaired.

C. Pharmacy interns who have knowledge a pharmacist, pharmacy intern, pharmacy technician, or pharmacy technician candidate is impaired shall notify the board of that fact as soon as possible.

D. Pharmacy interns may be subject to a medical evaluation for impairment by a board approved addictionist, as authorized by the Louisiana Pharmacy Practice Act, R.S. 37:1161 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1130 (June 2007).

Chapter 11. Pharmacies

Subchapter A. General Requirements

§1101. Pharmacy

A. - B. ...

C. Pharmacy Permit

1. The initial pharmacy permit application shall be completed and signed by the pharmacist-in-charge and the owner of the pharmacy and submitted to the board for approval. An application for a pharmacy permit shall expire one year after the date of receipt in the board office.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997), amended LR 29:2087 (October 2003), effective January 1, 2004, amended LR 33:1131 (June 2007).

§1115. Advertising

A - C. ...

D. No advertising shall include any reference, direct or indirect, to any controlled dangerous substance as provided for in Schedules II, III, IV, or V of R.S. 40:964. The provision of coupons or vouchers for controlled dangerous substances through authorized prescribers, which accompany legitimate prescriptions for such controlled dangerous substances issued to patients, shall not be prohibited by this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997), amended LR 29:2089 (October 2003), effective January 1, 2004, amended LR 33:1131 (June 2007).

§1117. Centralized Prescription Processing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2089 (October 2003), effective January 1, 2004, repealed LR 33:1131 (June 2007).

Subchapter C. Pharmacy Opening, Closing, Change of Ownership, and Change of Location Procedures

§1135. Pharmacy Change of Ownership Procedures

A. - A.2. ...

3. Upon receipt of the new permit, the seller shall:

a. notify the board of the transaction, including the identity of the new owner(s); and

b. surrender the voided pharmacy permit and voided Louisiana Controlled Dangerous Substance License to the board.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2092 (October 2003), effective January 1, 2004, amended LR 33:1131 (June 2007).

Subchapter D. Off-Site Services

§1139. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise.

Centralized Prescription Dispensing—the fulfillment by one permitted pharmacy of a request from another permitted pharmacy to fill or refill a prescription drug order.

On-Site Pharmacy—a permitted pharmacy which utilizes centralized prescription dispensing services from a remote dispenser or remote processing services from a remote processor.

Remote Processing Services—the processing of a medical order or prescription drug order by one permitted pharmacy on behalf of another permitted pharmacy, including:

- a. receipt, interpretation, or clarification of an order;
- b. data entry and information transfer;
- c. interpretation of clinical data;
- d. performance of drug utilization review; and
- e. provision of drug information concerning a patient's drug therapy; provided, however, that remote processing does not include the physical preparation or physical transfer of drugs.

Remote Dispenser—a Louisiana permitted pharmacy which provides centralized prescription dispensing services for another permitted pharmacy in Louisiana.

Remote Processor—a permitted pharmacy in Louisiana which provides remote processing services for another permitted pharmacy in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1131 (June 2007).

§1141. Centralized Prescription Dispensing

A. General Requirements

1. An on-site pharmacy may obtain centralized prescription dispensing services from a remote dispenser provided the pharmacies:

a. have the same owner or have entered into a written contract or agreement that outlines the services to be provided and the responsibilities and accountabilities of each pharmacy in compliance with federal and state laws, rules, and regulations; and

b. share a common electronic file or have appropriate technology to allow access to sufficient information necessary or required to provide the requested services.

2. All drugs dispensed to a patient that have been dispensed by a remote dispenser shall bear a label containing an identifiable code that provides a complete audit trail of the dispensing of the drug and pharmacy primary care activities.

B. Policies and Procedures

1. On-site pharmacies and remote dispensers engaging in the acquisition or provision of centralized dispensing services shall maintain a policy and procedure manual for reference by all personnel; it shall be made available for inspection and copying by the board.

2. At a minimum, the manual shall include policies for:

- a. a description of how the parties will comply with federal and state laws and regulations;
- b. the maintenance of appropriate records to identify the responsible pharmacist(s) in the dispensing and counseling processes;
- c. the maintenance of a mechanism for tracking the prescription drug order during each step in the dispensing process;
- d. the maintenance of a mechanism to identify on the prescription label all pharmacies involved in the dispensing of the prescription drug order; and
- e. the provision of adequate security to protect the confidentiality and integrity of patient information and to prevent its illegal use or disclosure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1131 (June 2007).

§1143. Remote Processing of Medical Orders or Prescription Drug Orders

A. General Requirements

1. An on-site pharmacy may obtain remote processing services from a remote processor provided the pharmacies:

- a. have the same owner or have entered into a written contract or agreement that outlines the services to be provided and the responsibilities and accountabilities of each pharmacy in compliance with federal and state laws, rules, and regulations; and
- b. share a common electronic file or have appropriate technology to allow access to sufficient information necessary or required to provide the requested services.

2. With respect to hospital pharmacies and institutional pharmacies, a contract or agreement for remote processing services shall not relieve the on-site pharmacy from employing or contracting with a pharmacist to provide routine pharmacy services within the hospital or institutional facility. The activities authorized by this Section are intended to supplement hospital and institutional pharmacy services when the pharmacy is not operating and are not intended to eliminate the need for an on-site pharmacy or pharmacist.

B. Access to Patient Information

1. The pharmacist at the remote processor shall have secure electronic access to the on-site pharmacy's patient information system and to all other electronic systems directly involved with the preparation of prescriptions that the on-site pharmacy's pharmacist has access to when the on-site pharmacy is operating. The pharmacist at the remote processor shall receive training in the use of the on-site pharmacy's electronic systems.

2. If an on-site pharmacy is not able to provide remote electronic access to the remote processor, both pharmacies shall have appropriate technology to allow access to the required patient information.

C. Policies and Procedures

1. On-site pharmacies and remote processors engaging in the acquisition or provision of remote processing services shall maintain a policy and procedure manual for reference by all personnel; it shall also be available for inspection and copying by the board.

2. At a minimum, the manual shall include policies and procedures for:

- a. identification of the responsibilities of each of the pharmacies;
- b. protection of the integrity and confidentiality of patient information;
- c. maintenance of appropriate records to identify the name, initials, or unique identification code of each pharmacist performing processing functions, the specific services performed, and the date of such services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1132 (June 2007).

Chapter 15. Hospital Pharmacy

§1503. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise.

* * *

Remote Processing Services—the processing of a medical order or prescription by one pharmacy on behalf of another pharmacy, including:

- a. receiving, interpreting, or clarifying a medical order;
- b. entering data and transferring medical order information;
- c. interpreting clinical data;
- d. performing therapeutic intervention relative to medication therapy; and
- e. providing drug information concerning a patient's drug therapy; provided, however, that remote processing does not include the physical preparation or physical transfer of drugs.

Remote Processor—a permitted hospital pharmacy in Louisiana which provides remote processing services for another permitted hospital pharmacy in Louisiana.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, amended LR 33:1132 (June 2007).

§1505. Hospital Pharmacy Permit

A. A hospital pharmacy permit shall be required to operate a pharmacy department located within a hospital for registered patients in a hospital. The permit shall be applied for, and renewed, in the manner prescribed by the board in Chapter 11 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, amended LR 33:1132 (June 2007).

§1525. Remote Processing of Medical Orders

A. General Requirements

1. A hospital pharmacy may obtain remote processing services from a remote processor provided the pharmacies:

- a. have the same owner or have entered into a written contract or agreement that outlines the services to be

provided and the responsibilities and accountabilities of each pharmacy in compliance with federal and state laws, rules, and regulations; and

b. share a common electronic file or have appropriate technology to allow access to sufficient information necessary or required to provide the requested services.

2. A contract or agreement for remote processing services shall not relieve the hospital pharmacy from employing or contracting with a pharmacist to provide routine pharmacy services within the facility. The activities authorized by this Section are intended to supplement hospital pharmacy services when the pharmacy is not operating and are not intended to eliminate the need for an on-site hospital pharmacy or pharmacist.

B. Access to Patient Information

1. The remote pharmacist shall have secure electronic access to the hospital pharmacy's patient information system and to all other electronic systems that the hospital pharmacist has access to when the pharmacy is operating. The remote pharmacist shall receive training in the use of the hospital's electronic systems.

2. If a hospital pharmacy is not able to provide remote electronic access to the patient information system, both pharmacies shall have appropriate technology to allow access to the required patient information.

C. Policies and Procedures

1. Hospital pharmacies and remote processors engaging in the acquisition or provision of remote processing services shall maintain a policy and procedure manual for reference by all personnel; it shall also be available for inspection and copying by the board.

2. At a minimum, the manual shall include policies and procedures for:

- a. identification of the responsibilities of each of the pharmacies;
- b. protection of the integrity and confidentiality of patient information;
- c. maintenance of appropriate records to identify the name, initials, or unique identification code of each pharmacist performing processing functions, the specific services performed, and the date of such services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1132 (June 2007).

Chapter 17. Institutional Pharmacy

Subchapter A. General Requirements

§1707. Drug Cabinet

A. - A.5. ...

6. Inspection. The pharmacy shall inspect medications stored in a drug cabinet every 30 days, plus or minus five days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2095 (October 2003), effective January 1, 2004, amended LR 33:1133 (June 2007).

Chapter 19. Nuclear Pharmacy

§1907. Qualified Nuclear Pharmacist

A. ...

B. Continuing Education. Nuclear pharmacists shall obtain at least five hours of the total required hours of Accreditation Council for Pharmacy Education (ACPE) or board-approved continuing education on those applications and procedures specific to nuclear pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2098 (October 2003), effective January 1, 2004, amended LR 33:1133 (June 2007).

Chapter 23. Out-of-State Pharmacy

§2307. Pharmacist-in-Charge

A. ...

B. The pharmacist-in-charge shall have an active and current license in the state in which the pharmacy is located, and further, shall not have any restrictions that prohibit the position of pharmacist-in-charge.

C. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 18:1381 (December 1992), effective January 1, 1993, LR 29:2100 (October 2003), effective January 1, 2004, amended LR 33:1133 (June 2007).

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter B. Prescriptions

§2519. Prescription Refills

A. Refill Authorization. Prescription refills may be dispensed only with the prescriber's authorization, as indicated on the original prescription order. In the absence of the authorized practitioner's instructions on the original prescription, the prescription shall be considered non-refillable. When all refills authorized on the original prescription have been dispensed, then authorization from the prescribing practitioner shall be obtained prior to dispensing; when such authorization has been received, a new prescription shall be prepared and it shall be issued a different prescription number.

B. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, amended LR 33:1133 (June 2007).

§2523. Transfer of Prescription Information

A. Prescription Transfer Requirements

1. Prescriptions for Controlled Dangerous Substances
a. The transfer of original prescription information for a controlled substance listed in Schedules III, IV, or V for the purpose of refill dispensing is permissible between pharmacies on a one time basis only. However, pharmacies electronically sharing a real-time, on-line database may

transfer up to the maximum refills permitted by law and the prescriber's authorization, whether or not the pharmacy from which the prescription is transferred is open for business. Transfers are subject to the following requirements.

i. The transfer is communicated directly between two licensed pharmacists and the transferring pharmacist records the following information.

(a). Invalidation of the prescription.

(b). Record on the reverse of the invalidated prescription the name, address, and DEA registration number of the pharmacy to which it was transferred and the name of the pharmacist receiving the prescription information.

(c). Record the date of the transfer and the name of the pharmacist transferring the information.

b. The pharmacist receiving the transferred prescription information shall reduce to writing the following.

i. Indication of the transferred nature of the prescription.

ii. Provide all information required for a prescription for a controlled substance (full name and address of patient; drug name, strength, and dosage form; quantity prescribed and directions for use; and the name, address, and DEA registration number of the prescriber) and include:

(a). date of issuance of original prescription;

(b). original number of refills authorized on original prescription;

(c). date of original dispensing;

(d). number of valid refills remaining and date(s) and location(s) of previous refill(s);

(e). pharmacy's name, address, DEA registration number and prescription number from which the prescription information was transferred;

(f). name of pharmacist who transferred the prescription; and

(g). pharmacy's name, address, DEA registration number and prescription number from which the prescription was originally filled.

iii. The original and transferred prescription(s) shall be maintained for a period of two years from the date of the last refill.

c. Pharmacies electronically accessing the same prescription record shall satisfy all information requirements of a manual mode for prescription transferal.

2. Prescriptions for Drugs Other Than Controlled Dangerous Substances

a. The transfer of original prescription information for the purpose of refill dispensing is permissible between pharmacies, subject to the following requirements.

i. Prescriptions may be transferred up to the maximum number of refills permitted by the prescriber on the original prescription.

ii. The transferring pharmacist, intern or certified technician shall record the information itemized in Clause 1.a.i above, with the exception of DEA registration numbers.

iii. The receiving pharmacist, intern or certified technician shall record the information itemized in

Subparagraph 1.b above, with the exception of DEA registration numbers.

b. The original and transferred prescription(s) shall be maintained for a period of two years from the date of the last refill.

c. Pharmacies electronically accessing the same prescription record shall satisfy all information requirements of a manual mode for prescription transferal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, amended LR 33:1133 (June 2007).

Subchapter D. Controlled Dangerous Substances

§2543. CDS Prescription Order Requirements

A. - B.6.b. ...

c. Partial Filling for Patient of Long-Term Care Facility or for Patient with Terminal Illness. A prescription for a drug listed in Schedule II for a patient in a long-term care facility or for a patient with a terminal illness may be filled in partial quantities.

i. - i.(c). ...

ii. The remaining portion may be filled within 60 days of the date of issue. However, if the remaining portion is not filled within the 60-day period, the pharmacist shall notify the prescribing practitioner.

B.6.c.iii. - C.3.d. ...

D. Labeling of Dispensed Controlled Dangerous Substances. In addition to the labeling requirements enumerated in §2517 of these regulations, a prescription label for a controlled dangerous substance shall include the federal transfer caution label.

E. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2108 (October 2003), effective January 1, 2004, amended LR 33:1134 (June 2007).

§2549. CDS Theft or Loss

A. - A.2. ...

3. Notice. The permittee shall file the above-referenced report to the board within 10 days of discovery of the theft or loss.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2111 (October 2003), effective January 1, 2004, amended LR 33:1134 (June 2007).

Malcolm J. Broussard
Executive Director

0706#029

RULE

**Department of Health and Hospitals
Office of the Secretary
and
Department of Social Services
Office of the Secretary**

**Community and Family Support System—Cash Subsidy
(LAC 48:I.Chapter 161)**

The Department of Health and Hospitals, Office of the Secretary, Office of the Secretary and the Department of Social Services, Office of the Secretary has amended the entire Chapter 161 of Part I concerning the Community and Family Support System Cash Subsidy as authorized by R.S. 28:821. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 378 of the 1989 Regular Session of the Louisiana Legislature and Act 1011 of the 1991 Regular Session of the Louisiana Legislature created and continued the Community and Family Support System (R.S. 28:821 et seq.). The original Rule was promulgated to implement the Cash Subsidy Program to provide a cash stipend to families of eligible children with severe and profound disabilities to offset the cost of keeping their children at home. This amendment changes terminology for qualifying exceptionalities to reflect current usage, recognizes Human Services Districts and Human Services Authorities (in addition to state program offices) and returns management of the program waiting lists to the administration of these regional governing agencies.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

**Subpart 11. Community and Family Support System
Chapter 161. Community and Family Support System
Cash Subsidy**

§16101. Introduction

A. The first and primary natural environment for all people is the family. Children, regardless of the severity of their disability, need families and enduring relationships with adults in a nurturing home environment. As with all children, children with developmental disabilities need families and family relationships to develop to their fullest potential. Services for persons with developmental disabilities should be responsive to the needs of the individual and his family, rather than fitting the person into existing programs. Family supports are those supports that enable a family to keep their child with developmental disabilities at home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), repromulgated LR 33:1135 (June 2007).

§16103. Definitions

Agency—the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities (OCDD) Regional Offices and Human Services Districts (Districts) and Human Services Authorities (Authorities) providing

developmental disabilities services which shall administer the cash subsidy program for the exceptionalities of developmental delay for children between the ages of 3 through 8 years, autism, mental disability/severe, mental disability/profound, deaf-blind (deaf and blind), traumatic brain injury, multiple disabilities, other health impairment and orthopedic impairment, the Office of Mental Health (OMH) and Districts and Authorities providing mental health services which shall administer the cash subsidy program for the exceptionality, emotional disturbance.

Appropriate Documentation for Exceptionalities Served by the OCDD and Districts and Authorities Providing Developmental Disabilities Services—the most recent report, current within a year, which demonstrates parental participation with the Louisiana State Department of Education in development of specialized educational services and/or authorization of specialized educational settings for children with special needs. No evaluation or assessment can be accepted into consideration for eligibility determination unless incorporated into the report of exceptionality generated through the local school system. Only documentation that is current within a year can be accepted into consideration for eligibility determination. Appropriate documentation includes: the Pupil Appraisal Evaluation (for infants and toddlers, this may be called a Multidisciplinary Evaluation for Part C Services); the Individualized Education Plan (IEP); an approved home study plan; or, the Individual Family Service Plan (IFSP).

Appropriate Documentation for the Exceptionality served by the OMH and Districts and Authorities Providing Mental Health Services—the most recent report, current within a year, which demonstrates parental participation with the Louisiana State Department of Education in development of specialized educational services and/or authorization of specialized educational settings for children with special needs. Appropriate documents includes: the Pupil Appraisal Evaluation or the Individualized Education Plan (IEP), current within a year; or, evidence of an Interagency Service Coordination Process; or, a certification from a licensed mental health professional that the child meets the Department of Education's criteria for emotional disturbance; or, a current treatment plan from a licensed community mental health center.

Cash Subsidy—a monetary payment to eligible families of children with severe or profound developmental disabilities to offset the costs of keeping their child at home.

Child—an individual under the age of 18.

Developmental Disability—defined in accordance with the Developmental Disability Law at R.S. 28:451.2(12).

Licensed Mental Health Professional—a person credentialed to provide mental health services by a professional board established and approved by the state of Louisiana, including those boards which examine physicians (psychiatrists), psychologists, social workers, counselors, nurse practitioners, etc.

Qualifying Exceptionality—only the following exceptionalities identified through the Department of Education's Evaluation Process may be considered for the cash subsidy from the OCDD and Districts and Authorities providing developmental disabilities services: autism, deaf-blindness (deaf and blind), mental disability/severe, mental disability/profound, multiple disabilities, orthopedic

impairment, other health impairment, traumatic brain injury, and developmentally delayed for children between the ages of 3 through 8 years; other exceptionalities listed through that process are not eligible for participation in the cash subsidy program except that the exceptionality, emotional disturbance may be considered for the cash subsidy from the OMH and Districts and Authorities providing mental health services.

Responsible Care Giver—a child's natural or adoptive mother or father or the person who is responsible for the primary care and management of the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007).

§16105. Application Process

A. Applications for cash subsidy will be accepted by mail only and only in the OCDD Regional Office or OMH or district or authority providing developmental disability or mental health services in which the child resides. There is no closing date for accepting applications.

B. The responsible care giver is responsible for completing the application and submission of appropriate documentation of a qualifying exceptionality. The responsible care giver is responsible for all aspects of the application process and for maintaining eligibility of their child.

C. To be complete, the documentation listed in §16103 which identifies a qualifying exceptionality must accompany the application for the cash subsidy and the application must be signed by the responsible care giver and received by the appropriate agency through the mail.

D. Applications for the cash subsidy shall be screened at the point of initial application to determine whether the child has a qualifying exceptionality and the child is appropriately served by the agency to ensure that applications are routed to the appropriate agency.

E. Only complete applications will be placed on the waiting list for eligibility determination with a post mark date of application of the envelope containing the complete application. Applications that are not complete will be returned to the responsible care giver with instructions on how to complete the application.

F. Applications will be maintained on the waiting list by date/time order of application, only in the region in which the child lives; no child may be placed on a waiting list or receive a cash subsidy from more than one region or agency.

G. Responsible care givers will receive confirmation of the date of receipt of the initial completed application and of their post marked date of application on the waiting list for eligibility determination, and annually thereafter.

H. A re-application can be submitted at any time a cash subsidy is terminated for any reason other than exceeding the eligible age for participation in the cash subsidy program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February

1992), amended LR 23:862 (July 1997), LR 28:1020 (May 2002), LR 33:1136 (June 2007).

§16107. Determining Children Eligible for the Cash Subsidy

A. In all cases, the exceptionality reported on the most current, current within a year, appropriate documentation (§16103) shall be used to make a determination of eligibility for the cash subsidy program.

B. Only evaluations reported through the Pupil Appraisal process will be accepted for consideration for exceptionalities served by the OCDD, OMH, or Districts or Authorities providing developmental disabilities services; such evaluations shall be considered when reported through that process.

C. Children must be involved in an educational setting approved by the local educational agency; documentation of such approval must be received on an annual basis.

D. Children must meet the criteria for developmental disability and severity of exceptionality, as appropriate, to be eligible to participate in the cash subsidy program through the OCDD or District or Authority providing developmental disabilities services.

1. If a child is classified with the following primary or secondary exceptionalities, the child is eligible for the cash subsidy from the OCDD or District or Authority providing developmental disabilities services without a screening of the severity of their exceptionality: autism, deaf-blindness (deaf and blind), mental disability/severe, mental disability/profound and multiple disabilities.

2. If a child is classified with the following primary or secondary exceptionalities, the child shall be screened by the OCDD or district or authority providing developmental disabilities services to determine whether they meet the severity criteria specific to their exceptionality: developmental delay for children between the ages of 3 through 8 years, orthopedic impairment, other health impaired, and traumatic brain injury. Only children who meet the criteria for severity of exceptionality shall be eligible to receive the cash subsidy.

E. If a child is classified with a primary or secondary exceptionality of emotional disturbance or presents other appropriate documentation that identifies an emotional disturbance, the child shall be screened by the OMH or district or authority providing mental health services to determine whether they meet the severity criteria specific to that exceptionality to be eligible to receive the cash subsidy.

F. Children who are adopted are eligible to participate in the cash subsidy program, including families who are receiving a specialized adoption subsidy; families who have more than one child who is eligible to participate in the cash subsidy program will be eligible for the cash subsidy amount for each child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:863 (July 1997), LR 28:1020 (May 2002), LR 33:1136 (June 2007).

§16109. Children Ineligible for the Cash Subsidy

A. These children cannot participate in the cash subsidy program:

1. children living in subsidized out-of-home settings such as state-funded foster care or specialized foster care;
2. children living and/or attending schools outside the state of Louisiana; and
3. children in residence at the Louisiana School for the Deaf and the Louisiana School for the Visually Impaired.

B. Any removal of the cash subsidy recipient from the home of the responsible care giver that exceeds 30 days may be considered an out-of-home placement, except that acute care hospitalization does not disqualify a child, and psychiatric hospitalizations of up to 90 days are not automatically considered out-of-home placements. With appropriate documentation, the responsible agency shall make an individual assessment of the continuation of the cash subsidy in light of family situation and circumstances.

C. It will be the responsibility of the responsible care giver to notify the agency when a child is removed from the home; failure to notify the responsible agency of such removal shall be potential grounds for termination of the cash subsidy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:187 (February 1992), amended LR 23:863 (July 1997), LR 28:1021 (May 2002), LR 33:1136 (June 2007).

§16111. Eligibility Determination

A. The OCDD Regional Offices and the OMH or Districts or Authorities providing developmental disabilities or mental health services shall be responsible for determination of eligibility of all applicants for the cash subsidy for which they have responsibility.

B. An initial determination for eligibility for the cash subsidy will be made at the time that a slot becomes available; if receiving the cash subsidy, an annual determination of eligibility shall be made.

C. At any time a responsible care giver cannot provide adequate and appropriate documentation of a qualifying exceptionality, the responsible care giver may request the local school agency to re-evaluate the child's exceptionality.

1. If the request for re-evaluation occurs at the initial determination of eligibility, the eligibility determination process will be held open for the period of re-evaluation, plus 10 working days. If the child can then be determined to be eligible, the cash subsidy will begin in the month that the next slot becomes available.

2. If the request for re-evaluation occurs at the annual determination of eligibility, the cash subsidy will be discontinued until the re-evaluation becomes available, plus 10 working days. If the child can then be determined to be eligible, the cash subsidy will resume in the month when the determination is made.

D. The OCDD Regional Offices and the OMH and Districts and Authorities providing developmental disabilities or mental health services shall be responsible to maintain a waiting list of all cash subsidy applicants to the agency according to their post marked date of application to ensure that applicants for the cash subsidy program are not receiving the cash subsidy from other agencies. Cash subsidy opportunities will be offered to applicants by date/time order of application (first come, first serve).

E. There shall be no financial criteria for eligibility for the cash subsidy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:187 (February 1992), amended LR 23:863 (July 1997), LR 28:1021 (May 2002), LR 33:1137 (June 2007).

§16113. Payment Guidelines

A. The amount of the cash subsidy shall be \$258 monthly to families of eligible children with severe and profound disabilities to off-set the cost of keeping their child at home; families will not be required to document how the subsidy is used.

B. The termination date for a child attaining age 18 years shall be the last day of the birthday month.

C. If for any reason a recipient receives excess payment, repayment of that amount will be requested. Failure to cooperate with repayment will be referred to DHH for recoupment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:864 (July 1997), LR 28:1021 (May 2002), LR 33:1137 (June 2007).

§16115. Terminations

A. Reasons for termination may include the following: child moves out of state; family requests termination of the cash subsidy payment; child is placed into a subsidized living setting or attends school away from the home or in another state; death of the child; fraud; theft; termination or limitation of funding of the program; failure to comply with the provisions of the individual agreement or the cash subsidy program including the requirement to maintain quarterly contact with the agency administering the cash subsidy; child's exceptionality or degree of severity no longer meets eligibility criteria; child attains age 18 years; and, responsible care giver fails to maintain the child in an approved educational program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:864 (July 1997), LR 28:1022 (May 2002), LR 33:1137 (June 2007).

§16117. Ongoing Monitoring

A. The responsible care giver is responsible to maintain contact with the agency administering the cash subsidy at least every 90 days to verify that the child is in the home and the conditions of the individual agreement and cash subsidy program are being met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997), LR 28:1022 (May 2002), LR 33:1137 (June 2007).

§16119. Appeals

A. All persons receiving an eligibility determination shall have access to the Department of Health and Hospital's

appeal process and shall be informed of their right of appeal and the process to make an appeal at the point of initial eligibility determination and at termination of a cash subsidy for any reason other than exceeding the eligible age for participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997), LR 28:1022 (May 2002), LR 33:1137 (June 2007).

§16121. Program Evaluation

A. An annual external evaluation based on participant satisfaction with the program and performance may be completed by the responsible program office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997), LR 28:1022 (May 2002), LR 33:1138 (June 2007).

Frederick P. Cerise, M.D., M.P.H.
Secretary, DHH
and
Ann S. Williamson
Secretary, DSS

0706#030

RULE

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

Early and Periodic Screening, Diagnosis and Treatment Dental Program—Reimbursement Rate Increase (LAC 50:XV.6901, 6903 and 6905)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended LAC 50:XV.6903 and adopted §§6901 and 6905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment

Chapter 69. Dental

§6901. General Provisions

A. Medicaid recipients who are under 21 years of age are eligible to receive services covered by the EPSDT Dental Program.

B. Provider participation is limited to those dentists who are duly licensed and authorized to practice dentistry in the state of Louisiana and who are enrolled in the Medicaid Program as a dental provider.

C. Prior authorization is required for certain dental services covered in the EPSDT Dental Program. Services

requiring prior authorization are identified in the Dental Services Manual, EPSDT Dental Program Fee Schedule.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1138 (June 2007).

§6903. Covered Services

A. Effective November 1, 2006, the following dental procedures are included in the service package for coverage under the EPSDT Dental Program:

1. prefabricated stainless steel crown with resin window; and
2. appliance removal (not by the dentist who placed the appliance), including removal of archbar.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:175 (February 2003), amended LR 30:252 (February 2004), LR 31:667 (March 2005), LR 33:1138 (June 2007).

§6905. Reimbursement

A. Services covered in the EPSDT Dental Program shall be reimbursed at the lower of either:

1. the dentist's billed charges minus any third party coverage; or
2. the state's established schedule of fees, which is developed in consultation with the Louisiana Dental Association and the Medicaid dental consultants, minus any third party coverage.

B. Effective for dates of service on and after November 1, 2006, the reimbursement fees for:

1. comprehensive orthodontic treatment services are increased to the 2006 National Dental Advisory Service Comprehensive Fee Report 70th Percentile rate;
2. resin-based composite crown, anterior and prefabricated resin crown are increased by 30 percent of the fees on file in the EPSDT Dental Program Fee Schedule as of October 31, 2006; and
3. all other dental services are increased by 25 percent of the fees on file in the EPSDT Dental Program Fee Schedule as of October 31, 2006 unless otherwise stated in this Chapter.

C. The following dental services are excluded from the rate increase:

1. complete denture, maxillary;
2. complete denture, mandibular;
3. immediate denture, maxillary;
4. immediate denture, mandibular;
5. maxillary partial denture, resin base (including clasps);
6. mandibular partial denture, resin base (including clasps);
7. reline complete maxillary denture (laboratory);
8. reline complete mandibular denture (laboratory);
9. reline maxillary partial denture (laboratory);
10. reline mandibular partial denture (laboratory);
11. hospital call; and
12. behavior management, by report.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1138 (June 2007).

Frederick P. Cerise, M.D., M.P.H.
Secretary

0706#058

RULE

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

CommunityCARE Program
Immunization Pay-for-Performance Initiative
(LAC 50:I.2915)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:I.2915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Medicaid Managed Care

Chapter 29. CommunityCARE

§2915. Immunization Pay-for-Performance

A. A supplemental payment will be implemented as an incentive to promote the immunization of Medicaid eligible children.

1. Qualification for the supplemental payment shall be based on the CommunityCARE primary care provider's participation in Vaccine for Children Program (VFC) and the Louisiana Immunization Network for Kids Statewide (LINKS), and performance in achieving state-established immunization benchmarks for children being up to date with recommended immunizations.

B. Supplemental Payment Calculations. Payments will be calculated on a monthly basis utilizing only the data that is in the LINKS immunization registry at the time of the monthly calculation.

C. Supplemental Payment Levels. Supplemental payments will be made to CommunityCARE PCPs or subcontractors of KIDMED services who utilize VFC and LINKS.

1. Supplemental payments shall be made according to the following levels:

a. \$0.25 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP with less than 75 percent of the recipients 24 months old and up-to-date with the appropriate vaccine series;

b. \$0.50 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP with 75 percent to 89 percent of the recipients 24 months old and up-to-date with the appropriate vaccine series; and

c. \$1 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP with 90 percent or more of the recipients 24 months old and up-to-date with the appropriate vaccine series.

2. Providers participating in this initiative shall only qualify for a single level of payment.

3. Supplemental payments will be issued on a quarterly basis.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1139 (June 2007).

Frederick P. Cerise, M.D., M.P.H.
Secretary

0706#059

RULE

**Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission**

General Requirements
(LAC 55:IX.Chapters 1 and 15)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, R.S. 40:1846 and R.S. 3:1354, relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases and anhydrous ammonia, respectively, the commission has amended 43 existing Sections and adoption of two new Sections. The effective date of these changes and adoptions is July 1, 2007.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

§103. Definitions

A. ...

* * *

Leak Check—operation performed on a complete gas piping system and connected equipment prior to placing it into operation following initial installation and pressure testing or interruption of gas supply or out-of-gas situation or first time service of a new customer to verify that the system does not leak.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:459 (March 1998), LR 29:2508 (November 2003), LR 31:2556 (October 2005), LR 33:1139 (June 2007), effective July 1, 2007.

§105. Applications

A. Any person, firm, or corporation desiring to enter the liquefied petroleum gas business in the state of Louisiana must file formal application for a permit or registration with the Liquefied Petroleum Gas Commission. In the case of Class VI and Class VIII permits a formal application for a permit must be filed for each location. All other classes of permits and registrations require only one formal application for the permit or registration. These applications for permits or registrations will be administratively granted by the office

of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits or registrations at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified, except in the cases of Class VI-X, VII-E, and R-1, R-2 registrations, where appearance is waived. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

B ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 24:460 (March 1998), LR 25:1262 (July 1999), LR 29:2509 (November 2003), LR 31:2567 (October 2005), LR 33:1139 (June 2007), effective July 1, 2007.

§107. Requirements

A. - A.1. ...

2. Formal application for a permit or registration must be submitted to the office of the director.

3. Must have on file in the office of the director, proof of insurance, issued by a Louisiana licensed agent, in the minimum sum of \$1,000,000, in the classes of insurance as required by the commission. This proof of insurance can be a copy of the policy with an endorsement that the insurance company will give at least 10 days notice to the commission before cancellation, or on a commission proprietary certificate of insurance, showing kinds and amount in force, with certificate bearing the clause that in the event the insurance company intends to cancel, the insurance company will notify the director of the Liquefied Petroleum Gas Commission 10 days prior to the date of cancellation or a binder of insurance coverage, within date, will be acceptable as proof of insurance until the policy or proprietary certificate of insurance can be issued. The commission will provide the proprietary certificate of insurance form on its public web site for downloading or will provide copies of the proprietary certificate of insurance form via facsimile or via U. S. mail upon request.

3.a. - 8.b. ...

c. The following shall be mandatory training requirements in order to maintain a certificate of competency in Louisiana.

i. New Hires

(a). Certified Employee Training Program (CETP) shall be the basis of all new hire training, which is not grandfathered.

(b). In addition to the regular Liquefied Petroleum Gas Commission competency test which is

required prior to beginning work unsupervised, all certificates of competency holders of Class 1 permit holders with certificates of competency with the following names, delivery truck driver, installation and service, and delivery truck driver/limited service must pass the CETP Basic Test within one year of their hire date. Up to two years provisional certificates of competency may be issued by the commission. Other commission certificates of competency, namely serviceman recreational vehicles, transport truck driver, motor fuel and carburetion installation, welding and metal working industry, manager exam, cylinder delivery truck driver, cylinder re-qualification, and all combined certificates containing the immediate before named certificates of competency are exempt from this provision.

(c). Training may be given by the individual companies or may be given by an outside firm and individual companies may use any method they choose to train their employees on the CETP Basic Program. This may include, but is not limited to, e-learning, CDs, manuals, classroom instruction or any combination thereof.

(d). The CETP Basis Test must be proctored by a licensed proctor.

(e). Tests will be available not less than two times each year in each commission inspector's area in a centralized location.

(f). All commission inspectors shall be licensed proctors with no costs being charged for their proctoring of tests.

(g). Proof of a passing grade (certification) must be sent to the Liquefied Petroleum Gas Commission by the employer before the second renewal period of the employee's certificate of competency. Failure to do so will require that the individual's certificate of competency be revoked.

(h). Individuals who have held a certificate of competency with the commission five years or longer are exempt from the CETP Basic new hire provision, however, they must meet the continuing education training provisions.

ii. Continuing Education

(a). Individuals with a commission certificate of competency in the following test names: transfer and cylinder filling operator, delivery truck driver, installation and service, welding and metal working industry, cylinder delivery truck driver, delivery truck driver/limited service, and all combined certificates containing any of the immediate before named certificates of competency shall have a minimum of two hours of approved continuing education every three years in order to maintain their certificates of competency.

(b). This training shall include training that is most tailored for the particular functions the employee does on a normal and routine basis. This may include CETP modular training classes, defensive driving classes, equipment certification classes, pipe sizing classes, leak check classes and other similar training pre-approved and assigned credit time by the Liquefied Petroleum Gas Commission.

(c). All training approved by the commission must be in objective format such as written, video with audio, or audio only. Each training class will be assigned credit time value for meeting time requirements of this Section.

(d). This training may be done in-house by the dealer, by out-side sources, or by commission inspectors.

(e). A Liquefied Petroleum Gas Commission inspector will be responsible for administering continuing education training tests in his area. These tests may be administered at centralized group locations or at dealer locations within the inspector's area. The inspector shall determine passing either through oral exam or written exam on the pre-approved subject matter.

iii. Effective Time of Provisions of §107.A.8.c

(a). Shall be upon effective date of enactment of this Section.

9. - 10. ...

11. Applicants for change of name must deposit a filing fee of \$25 with a formal application for a name change. The office of the director will administratively grant the name change after all commission requirements are met. The commission will ratify the name change at the next subsequent after which a minimum of 20 days have elapsed since the administrative granting of the name change. A representative of the new firm or corporation will be required to be present when the application is ratified by the commission, except in the cases of Class VI-X, VII-E, and R-1 and R-2 registrations, when appearance is waived. All certificates of competency must be changed to new name, except Class VI-X which does not require certificates of competency.

12. - 15. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:2256 (December 2001), LR 28:2553 (December 2002), LR 29:2509 (November 2003), LR 31:2567 (October 2005), LR 33:1140 (June 2007), effective July 1, 2007.

§113. Classes of Permits and Registrations

A. - A.1. ...

a. Must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

b. - f. ...

2. Class II. Holders of these permits may install and service liquefied petroleum gas containers, piping, and appliances but shall not sell nor deliver gas with this permit. This class will also apply to the installation and service of liquefied petroleum gas containers, piping, and appliances on mobile homes, motor homes, travel trailers, or any other recreational vehicles.

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

b. Louisiana manufacturers and dealers of mobile homes, motor homes, travel trailers, or any recreational vehicles shall comply with all state and federal safety standards and perform all safety tests on mobile homes, motor homes, travel trailers, or any recreational vehicles using liquefied petroleum gas.

c. Upon delivery of a mobile home, motor home, travel trailer, or any other recreational vehicle, new or used, the required installation report and inspection and testing of any liquefied petroleum gas system and appliances shall be performed by the dealer or any entity performing functions as a dealer, using liquefied petroleum gas in the system. An installation report properly completed and signed by the customer or his/her authorized representative must be sent to the director of the Liquefied Petroleum Gas Commission verifying that the tests were performed and that the test was eye witnessed by the customer or his/her authorized representative.

d. The mobile home or recreational vehicle dealer or entity performing functions as a dealer must have a permit with this commission and is responsible to this commission to make the required installation report, perform the required inspection and safety tests, or make arrangements for it to be made by a qualified permit holder.

2.e. - 3.

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

3.b. - 4. ...

a. Must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

4.b. - 5. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering manufacturers and contractors liability.

5.b. - 6. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products liability.

6.b. - 7. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products liability.

7.b. - 8. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering automobile liability.

8.b. - 9. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering automobile liability.

9.b. - 10. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products, manufacturers and contractors, and automobile liability.

10.b. - 11.a.

b. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products liability.

11.c. - 12. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering manufacturers and contractors liability.

12.b. - 13. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products and manufacturers and contractors liability.

b. - c.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 3:315 (July 1977), amended LR 7:633 (December 1981), LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October 1989), LR 16:1063 (December 1990), LR 19:904 (July 1993), LR 20:1400 (December 1994), LR 21:704 (July 1995), LR 24:461 (March 1998), LR 25:2411 (December 1999), LR 29:2509 (November 2003), LR 33:1141 (June 2007), effective July 1, 2007.

Subchapter F. Tank Trucks, Semi-Trailers and Trailers

§167. "Out-of-Gas Customers" or Interruption of Service Procedure

A. When a delivery of gas is made to any on-site container which is out of gas or liquefied petroleum gas service was interrupted, the servicing dealer shall follow the following procedure.

1. When "out-of-gas customer" is not present and the container is serviced:

- a. shut off the container service valve;
- b. place a tag on the container and the residence, the building, or the equipment the container services indicating the container is out-of-service. The tag shall inform the gas customer to contact a liquefied petroleum gas dealer or other qualified agency to perform a leak check or test on the system as required before turning on the container. Further action is the responsibility of the customer. If the customer places the system back into service without the required test, he must assume the liability for the system.

2. When "out-of-gas customer" is present and the container is serviced:

- a. shut off the container service valve;
- b. inform the gas customer the container is out of service and a qualified agency must perform a leak check or test on the system as required before turning on the container. Further action is the responsibility of the customer. If the customer places the system back into service without the required test, he must assume liability for the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:467 (March 1998), LR 33:1142 (June 2007), effective July 1, 2007.

Subchapter G. Systems Utilizing ASME and D.O.T. Containers

§171. Storage Capacity Requirements

A. The minimum capacity of above ground ASME storage containers shall be 100 gallon tank capacity for each 100,000 BTU appliance load. Tankless water heaters shall be rated at 50 percent of their input rating when calculating appliance load. Exception: D.O.T. Containers of 4 lbs. though 100 lbs. capacity are exempt from this requirement when connected to small portable appliances or outdoor cooking appliances with input ratings of 100,000 btu/hr. or less. Other exceptions to this rule must be approved by the director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 33:1142 (June 2007), effective July 1, 2007.

§173. Regulator Installation

A. A two-stage regulator or an integral two-stage regulator shall be required on all fixed piping systems that serve 1/2 psi appliance systems (11 in. w.c.). Single-stage regulators shall not be installed in fixed piping systems after June 30, 1997. Other requirements of NFPA 58, 1995 Edition, Section 3-2.6, as well as exceptions are applicable in Louisiana. Two-stage regulation shall not be retroactive to June 30, 1997. Exception: Not applicable to D.O.T. containers connected to small portable appliances and outdoor cooking appliances with input ratings of 100,000 btu/hr. or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:468 (March 1998), LR 33:1142 (June 2007), effective July 1, 2007.

§175. Pressure Tests, Leak Checks and Inspections Required

A. Pressure Tests

1. Shall be performed on all new piping systems and on piping systems that has been modified or had new piping added.

2. The length of time of the pressure test shall be not less than 1/2 hour for each 500 cubic feet of pipe volume or fraction thereof, except when pressure testing less than 10 cubic feet of pipe volume or a single family dwelling, the duration of the test may be reduced to 10 minutes.

3. The test pressure of the Pressure Test shall be 1 1/2 times the proposed operating pressure of the system but in no case less than 3 psig.

4. There shall be no gain or loss in pressure during the test. If leakage is indicated, the system shall be repaired and a new pressure test performed before placing in service.

5. The pressure source shall be isolated before the test.

6. No underground piping shall be covered until after inspection and the pressure test are made.

7. Pressure tests shall be documented in the dealer's files or filed with office of the director of the commission.

B. Leak Checks

1. Low Pressure Leak Checks

a. Shall be used on systems that receive gas at pressures of 1/2 psig or less.

b. Shall be performed the first time a tank, piping system and appliances are connected for use.

c. Shall be performed in any suspected leak situation.

d. Shall be performed the first-time service of a new customer.

e. Shall be performed in all out-of-gas and interruption of service situations. A High Pressure Leak Check will be permitted in lieu of the Low Pressure Leak Check if the dealer has documented in his files a Low Pressure Leak Check within the past 12 months for that customer or has filed such documentation with the office of the director within the past 12 months for that customer.

f. The length of time for this test shall be 3 minutes.

g. The test pressure for this test shall be 9 inches + or - 1/2 inch of water column or equivalent.

h. Low Pressure Leak Checks shall be documented in the dealer's files or filed with the office of the director of the commission.

i. This leak check shall include all regulators, including appliance regulators and control valves in the system. Accordingly each individual equipment shutoff valve should be supplying pressure to its appliance for this leak check. This leak check will prove the integrity of the 100 percent pilot shutoff of each gas valve so equipped, so the manual gas cock of each gas valve incorporating a 100 percent pilot shutoff should be in the "on" position. Pilots not incorporating a 100 percent pilot shutoff valve and all manual gas valves not incorporating safety shutoff systems are to be placed in the "off" position prior to this leak check.

j. When leakage is indicated, repairs must be made and a new leak check performed before placing the system back into service.

k. The following protocol shall be used for performing this leak check. Insert a water manometer or equivalent gauge into the system downstream of the final stage regulator, pressurizing the system with either fuel gas or another approved test medium to full operating pressure, close pressure service valve, observe gauge reading, lockup, should be between 10-14 inches of water column or equivalent, then release enough test medium through a range burner or other suitable means to drop the system pressure to 9 inches + or -1/2 inch in water column or equivalent. This ensures that all regulators are unlocked and the entire system is communicating to the gauging device. There shall be no loss or gain in pressure for a period of three minutes.

2. High Pressure Leak Checks

a. This leak check can be used on a system that receives gas at 1/2 psig or less, when a Low Pressure Leak Check has been performed and documented within the past twelve months by the dealer for that system.

b. This leak check can be used on systems that receive gas at pressures greater than 1/2 psig but less than tank pressure.

c. The length of time for this leak check is 3 minutes.

d. The test pressure for this leak check is 10 pounds below tank pressure.

e. These tests shall be documented in the dealer's files or filed with the office of the director.

f. When leakage is indicated, repairs shall be made and a new leak check performed before placing the system into service.

g. The following protocol shall be used for this leak check. By inserting a pressure gauge between the container gas shutoff valve and the first stage regulator in the system, admitting full container pressure to the system and then closing the container shutoff valve. Enough gas should then be released to lower the pressure reading by 10 psi. System should then be allowed to stand for 3 minutes without an increase or decrease in the pressure gauge reading. This method will indicate if there is an open line, open valve, a standing pilot open or leak anywhere in the system and can be used only under the conditions stated in §175.B.2.a of this Section.

3. In out-of-gas or interruption of service situations and a leak check can not be performed by the dealer, the procedure in §167 of this Code shall be used or the container cannot be serviced.

C. Inspections

1. Inspections shall be performed any time a pressure test, a high pressure leak check, or a low pressure leak check is performed. Exception: if the dealer has documented in his files an inspection of the system within the past 12 months for that system or has filed such documentation with the office of the director within the past 12 months for that system, no inspection is required.

2. Inspection shall include installation workmanship, all visible piping materials, connectors, appliances and other materials to ensure all materials, connectors, valves and appliances are approved for liquefied petroleum gas use.

3. Inspection shall include proper appliance installation and proper flame performance characteristics for the appliances.

4. Any materials, connectors, valves, appliances, or installation workmanship not in compliance with the codes shall be repaired, replaced, or disconnected.

5. Documentation that the inspection was performed shall be made by the dealer and retained in his files or filed with the office of the director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:468 (March 1998), LR 24:2312 (December 1998), LR 29:2510 (November 2003), LR 33:1142 (June 2007), effective July 1, 2007.

Chapter 15. Sale, Storage, Transportation and Handling of Anhydrous Ammonia

NOTE: This Chapter applies specifically to the sale, storage, handling, and transportation of anhydrous ammonia over Louisiana highways and the sale, construction and use of anhydrous ammonia containers and equipment.

Subchapter A. New Dealers

§1505. Applications

A. Any person, firm, or corporation desiring to enter the anhydrous ammonia business in the state of Louisiana must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director

upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:898 (July 1993), LR 33:1143 (June 2007), effective July 1, 2007.

§1507. Requirements

A. - A.1. ...

2. Formal application for a permit must be submitted to the office of the director.

3. Must have on file in the office of the director proof of insurance, issued by a Louisiana licensed agent, in the minimum sum of \$1,000,000, in the classes of insurance as required by the commission. This proof of insurance can be a copy of the policy with an endorsement that the insurance company will give at least 10 days notice to the commission before cancellation, or on a commission proprietary certificate of insurance, showing kinds and amount in force, with certificate bearing the clause that in the event the insurance company intends to cancel, the insurance company will notify the director of the Liquefied Petroleum Gas Commission 10 days prior to the date of cancellation, or a binder of insurance coverage, within date, will be acceptable as proof of insurance until the policy or proprietary certificate of insurance can be issued. The commission will provide the proprietary certificate of insurance form on its public web site for downloading or will provide copies of the proprietary certificate of insurance form via facsimile or via U. S. mail upon request.

4. - 10. ...

11. Applicants for change of name must deposit a filing fee of \$25 with a formal application for a name change. The office of the director will administratively grant the name change after all commission requirements are met. The commission will ratify the name change at the next subsequent commission meeting after which a minimum of 20 days have elapsed since the administrative granting of the name change. A representative of the new firm or corporation will be required to be present when the application is ratified by the commission. All certificates of competency must be changed to new name.

12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:898 (July 1993), LR 25:2413 (December 1999), amended LR 27:423 (March 2001), repromulgated LR 27:565 (April 2001), amended LR 33:1144 (June 2007), effective July 1, 2007.

§1513. Classes of Permits

A. The Liquefied Petroleum Gas Commission will issue upon application the following classes of permits:

1. Class A1. Holders of these permits may enter any phase of the anhydrous ammonia business.

a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

b. ...

c. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

1.d. - 2. ...

2.a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request

b. ...

c. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products, manufacturers and contractors, and automobile liability.

2.d. - 3. ...

a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

b. ...

c. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products liability.

3.d. - 4. ...

a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is not required at the commission meeting when the application for a permit is ratified. The formal application form(s) will be furnished by the commission upon request.

b. ...

c. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products and automobile liability.

4.d. - 5. ...

a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first

subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

5.b. - c. ...

d. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 automobile liability.

5.e. - 6. ...

a. must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is not required at the commission meeting when the application for a permit is ratified. The formal application form(s) will be furnished by the commission upon request;

b. - c. ...

d. holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering automobile liability.

e. - j. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:899 (July 1993), LR 25:2413 (December 1999), amended LR 27:423 (March 2001), repromulgated LR 27:565 (April 2001), LR 33:1144 (June 2007), effective July 1, 2007.

Charles M. Fuller
Director

0706#012

RULE

Department of Social Services Rehabilitation Services

State Personal Assistance Services Program
(LAC 67:VII.Chapter 11)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS), has revised Chapter 11. Revisions to the policy manual were

made to provide more flexibility in the program with regard to eligibility and service hours, and to revise the name of the Personal Care Assistance Program to State Personal Assistance Services Program.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 11. State Personal Assistance Services Program

§1101. Mission

A. General Statement. The Legislature of Louisiana recognizes the right of people with significant physical disabilities to lead independent and productive lives and further recognizes that persons with significant disabilities require personal assistance to meet tasks of daily living and, in many cases to avoid costly institutionalization. The creation of the State Personal Assistance Services Program, hereafter referred to as the SPAS Program, is to provide state personal assistance services to persons with significant disabilities in order to support and enhance their employability and/or to avoid inappropriate and unnecessary institutionalization. The mission of the SPAS Program is to provide for an orderly sequence of services to those persons who are determined eligible for the program.

B. Program Administration. The Department of Social Services, through Louisiana Rehabilitation Services (LRS), is responsible for the administration of the SPAS Program.

C. The Manual's Function. This manual sets forth the policies of LRS in carrying out the agency's mission, specifically as this mission relates to the SPAS Program.

D. Exceptions. The secretary or secretary's designee shall have the sole responsibility for any exceptions to this policy manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), repromulgated LR 19:1436 (November 1993), amended LR 33:1146 (June 2007).

§1103. Enabling Legislation

A. Louisiana Revised Statutes

1. Act 653, Chapter 27-A of Title 46 of the Louisiana Revised Statutes of 1950, comprising R.S. 46:2116 through 2116.5 relative to PCA services for individuals with significant disabilities.

2. Act 617 of the 2006 Legislative Session amending R.S. 46:2116, 2116.1(2),(3)(intro para), (3)(e) and (5), 2116.2(A) and (B)(1), (2), (3) and (4), (C)(intro para) and (C)(1) and (2), 2116.3(A), 2116.5(A) and (D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1437 (November 1993), LR 33:1146 (June 2007).

§1105. Definitions

A. The following terms, when used in this manual, shall have the meaning, unless the context clearly indicates otherwise.

Consumer-Directed—the consumer/recipient of personal assistance services, as provided by the SPAS Program, will direct, supervise, hire and discharge his/her personal attendant.

Contractor/Fiscal Agent—service provider(s).

Department—the Department of Social Services.

Evaluation Team—the individuals who determine the eligibility of individuals with significant disabilities for state personal assistance services and shall be designated by the Director of Louisiana Rehabilitation Services.

Individual with Significant Disabilities—an individual with loss of sensory or motor functions interfering with activities of daily living to the extent that the person requires assistance with non-medical personal care needs, domestic or cleaning needs, dressing and undressing, moving into and out of bed, transferring, ambulation, related services including but not limited to meal preparation, laundry, and grocery shopping, and other similar activities of daily living.

PA—personal assistance.

Secretary—the Secretary of the Department of Social Services.

State Personal Assistance Services (SPAS) Program—services which are required by individuals with significant disabilities between 18 and 60 years of age to achieve greater physical independence and which include but are not limited to services related to:

- a. routine bodily functions, such as bowel or bladder care;
- b. dressing;
- c. preparation and consumption of food;
- d. housecleaning and laundry;
- e. moving in and out of bed; transferring;
- f. routine bathing;
- g. ambulation;
- h. any other similar activity of daily living.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1437 (November 1993), LR 33:1146 (June 2007).

§1107. General Requirements

A. - A.2. ...

B. Compliance with State Laws, Federal Laws and Regulations, and Departmental Policies and Procedures. Staff involved in the SPAS Program shall comply with all state and federal laws, including Department of Social Services, LRS policies and procedures and Civil Service rules and regulations as applicable.

C. Cost-Effective Service Provision. State personal assistance services shall be provided in a cost effective manner without supplanting any existing personal assistance services.

D. Case File Documentation. All SPAS Program contractors/fiscal agents must maintain a case file for each SPAS Program consumer/recipient. The case file shall contain documentation to support the decision to provide, deny, or amend services. Documentation of the amounts and dates of each service provided to support all claims for reimbursement must also be included in the case file.

E. - F. ...

G. Hiring/Firing/Supervising. State personal assistance services as provided by the SPAS Program are to be consumer-directed at all times. The consumers of the SPAS Program shall direct, supervise, hire and discharge his/her personal assistance service provider in accordance with the fiscal agent's process. The personal assistance service consumer/recipient will report to the fiscal agent/contractor

all new hire/discharge actions within three working days of the occurrence in accordance with the fiscal agent's process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), repromulgated LR 19:1437 (November 1993), amended LR 33:1146 (June 2007).

§1109. Confidentiality

A. General Statement. All personal information in the possession of the fiscal agent shall be used only for purposes directly connected with the administration of the program.

B. Notification to Consumer/Recipients. Individuals asked to supply information for the fiscal agent shall be informed of the need to collect confidential information and the policies governing its use, release, and access, including:

1. the confidentiality of information provided in the case file must contain documentation that the individual has been advised of the confidentiality of information pertinent to his/her case;

2. the principal purpose for which the fiscal agent intends to use or release the requested data;

3. whether they may refuse or are legally required to supply the requested data;

4. any known consequence arising from not providing requested information will be deemed ineligible for the program;

5. the identity of other agencies to which information is routinely released.

C. Release of Confidential Information. The case file must contain documentation concerning any information released with the individual's written consent where needed. Informed written consent is not needed for the release of personal records in the following condition. The consumer/recipient must be advised of this condition:

1. - 3. ...

D. Consumer/Recipient Access to Data. When requested in writing by the consumer/recipient or his representative, consumers/recipients or applicants have the right to see and obtain in a timely manner copies of any information that the fiscal agent maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the consumer/recipient's physical or mental health;

2. medical, psychological, or other information which may be harmful to the consumer/recipient.

Note: Such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the consumer/recipient's representative, or a physician or a licensed or certified psychologist.

3. ...

E. Informed Consent. Informed consent means that the consumer/recipient has signed an authorization to release information, which:

1. - 6. ...

F. Court Orders, Warrants and Subpoenas. Subpoenaed case records and depositions are to be handled in the following manner.

1. With the written informed consent of the consumer/recipient, the court will be given full cooperation.

2. Without the written informed consent of the consumer/recipient, when a fiscal agent is subpoenaed for a deposition or receives any other request for information regarding a consumer/recipient, he should:

a. honor the subpoena;

b. take subpoenaed case record or case material to the place of the hearing at the time and date specified on the subpoena;

c. if called upon to testify or to present the case record information, inform the court of the following:

i. that the case record information or testimony is confidential information;

ii. the subpoenaed case record information is in fiscal agency's possession;

iii. fiscal agent personnel will testify and/or release the case record information only if ordered to do so by the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1437 (November 1993), LR 33:1147 (June 2007).

§1111. Applicant and Consumer/Recipient Appeal Rights

A. Any individual who is aggrieved by a decision with regard to a request for provision of personal assistance services may appeal said decision within 30 days from the date of the letter informing them of the denial decision taken on the SPAS Program application or reduction in services by requesting an informal administrative review. This request must be made in writing to Louisiana Rehabilitation Services, P.O. Box 91297, Baton Rouge, LA 70821-9297. The findings of the informal administrative review must be determined within 30 days from the receipt of the written request. If the individual is dissatisfied with the finding of this informal administrative review, within 10 days from the date of the informal administrative review decision, the request for a fair hearing must be made in writing to Louisiana Rehabilitation Services, P.O. Box 91297, Baton Rouge, LA 70821-9297. The fair hearing must be held within 30 days of receipt of the request. The impartial hearing officer will make a decision based on the provisions of the Louisiana Rehabilitation Services SPAS Policy Manual and the law and provide to the applicant or consumer, or if appropriate, the representative, and the Director of LRS a full written report of the findings and grounds for the decision within 30 days of the completion of the hearing.

B. Services shall remain unchanged during the appeal process until a final decision is reached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1438 (November 1993), LR 33:1147 (June 2007).

§1113. Eligibility and Ineligibility Decisions

A. Nondiscrimination and Nonexclusion. The evaluation team must apply eligibility requirements without regard to sex, race, creed, color or national origin of the individual applying for service.

B. A person can be determined eligible for services as set forth in R.S. 46:2116.2 if that individual meets all of the following criteria:

1. is an individual with significant disabilities; and
2. is between the ages of 18 and 60. An individual who begins to receive services between the ages of 18 and 60 shall continue to receive services after age 60, provided that all other eligibility requirements are met; and
3. needs personal assistance services from this program to prevent or remove the consumer/recipient from inappropriate placement in an institutional setting or enhance the consumer/recipient's employability; and
4. provides verification of the disability from the treating physician; and
5. is capable of hiring, firing, and supervising the persons who provide personal assistance services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993), LR 33:1147 (June 2007).

§1115. Economic Need

A. In determining an individual's financial need for services, Louisiana Rehabilitation Services will use a system based upon the current federal poverty guidelines. The economic need status of each consumer/recipient for the SPAS Program shall be considered in the initial determination of eligibility for services and at least annually thereafter. The consumer/recipient must provide verification of income.

B. The total monthly income of the SPAS applicant and/or spouse shall be considered in determining the amount of available income in the determination of eligibility for services. Current income received on a regular basis must be considered regardless of its source. Sources can include wages, fees, commissions, retainers, rent, interest, dividends, payment for service in cash or kind, benefits by way of pensions, compensation from insurance payments, fellowships, contributions from family or other individuals (including "free" room and board), public assistance payments, alimony and/or payments by roomers/boarders.

C. In determining the amount of available income to the consumer/recipient and/or spouse, the following are exceptions to be used:

1. court-ordered child support and/or alimony (use exact amount);
2. medical expenses, not covered by insurance, which are paid on a monthly basis, as documented by medical statements and/or canceled checks. Examples of monthly expenses are:
 - a. purchase of durable medical equipment;
 - b. repairs to durable medical equipment;
 - c. medication (not covered by insurance);
 - d. surgical supplies (not covered by insurance);
 - e. physician's bills (not covered by insurance);
 - f. hospitalizations (not covered by insurance);
 - g. unreimbursed personal assistance services paid by consumer/recipient;
 - h. payments withheld from wages for:
 - i. taxes;
 - ii. retirement;
 - iii. medical and/or life insurance premiums;
 - i. other unusual obligations to include any emergency needs, or any disability related expenses. Expenditure is to be documented as to total amount owed, for what, and amount of monthly payment.

D. Economic need will be applied using income minus allowed expenses cited above, if applicable.

E. Surplus. The monthly surplus must be applied toward the cost of services each month for the duration of planned services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 33:1148 (June 2007).

§1117. Plan for State Personal Assistance Services

A. A state personal assistance services plan is to be developed between the consumer/recipient and the fiscal agent to determine the number of personal assistance hours needed by the consumer/recipient per week. A SPAS plan shall be initiated annually or more often, if indicated. The SPAS plan and all updated plans shall be contained in the consumer/recipient's case record.

B. Consumer/Recipient Participation. The consumer/recipient is to participate fully in the development of the SPAS plan, including all changes and amendments. Consumer/recipient's signature is required for the personal assistance plan and any amendments.

C. Minimum content of the personal assistance plan:

1. identification of specific services to be delivered;
2. the frequency of service(s) with flexibility;
3. the beginning date and service review dates.

D. Amendment of the SPAS Plan. When the consumer/recipient or fiscal agent identifies a need for a change to the original SPAS plan, the consumer/recipient and the fiscal agent shall amend the plan to address the consumer/recipient's need(s). The amended plan shall be submitted to the evaluation team if such changes are markedly different from the original plan.

E. Annual State Personal Assistance Services Plan Review. Every 12 months a review of the SPAS plan is mandatory and shall be reflected on the amended plan. A review can be done before 12 months, if indicated. In all cases, the consumer/recipient shall be involved in any review and/or changes to his/her personal assistance plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993), LR 33:1148 (June 2007).

§1119. Financial

A. Prior Authorization. If an emergency situation exists where personal assistance services is needed to begin prior to the fiscal agent's receipt of written acceptance of consumer/recipient's application for SPAS Program, LRS Program Coordinator for the SPAS Program can provide authorization for services to begin. The fiscal agent must provide documentation in the consumer/recipient's case record confirming verification of the emergency and confirming authorization received from program coordinator. The program coordinator follows up such authorization in writing within five days to the appropriate fiscal agent following such verbal authorization.

B. The consumer/recipient of SPAS will invoice the contractor/fiscal agent bi-monthly in arrears for personal assistance services purchased and include copies of time sheets as verification of the services being provided. The invoice shall contain the following:

1. dates of services;
2. number of hours of personal assistance services per day;
3. rate of pay;
4. signature of personal assistance provider;
5. signature of consumer/recipient of the SPAS Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993), LR 33:1148 (June 2007).

§1121. Contractor/Fiscal Agent Responsibilities

A. The fiscal agent shall keep a waiting list of individuals wanting to apply for the SPAS Program.

B. The fiscal agent shall take a pre-application on consumer/recipients who will be placed on the waiting list for services and shall use criteria developed by Louisiana Rehabilitation Services in assigning a priority category for services.

C. When funds are available; the fiscal agent shall send the pre-application and application on the prioritized individual to the LRS Program Coordinator to forward to the evaluation team for determination or redetermination of eligibility.

D. The fiscal agent shall maintain a case record on each consumer/recipient or pre-application. The case record must include, as a minimum, the pre-application form and, if applicable, a copy of the ineligibility letter, personal assistance plan and all amendments to this plan, documentation from medical and/or other appropriate sources, proof of income, and any other additional material which is a necessary part of the application and/or reconsideration for the SPAS Program.

E. The fiscal agent shall perform reconsideration at least annually on all SPAS Program recipients including a determination of economic need for services. If there is a change in circumstances, a revised personal assistance plan must also accompany the reconsideration which is to be sent to the LRS Program Coordinator who will forward to the evaluation team.

F. The fiscal agent shall make available personal assistance management training to all individuals receiving services under this program. Documentation of training including dates, name of trainer and names of individuals trained should be included in the case record.

G. The fiscal agent shall advise the applicant/consumer/recipient of the evaluation team's decision within five working days from receipt of the team's decision if found eligible for the SPAS Program.

H. The fiscal agent shall maintain copies of the time sheets on the attendants in order to document the number of days and hours worked. Payments for the time worked shall be paid within a reasonable period of time after the invoice is received by the fiscal agent.

I. The fiscal agent shall investigate information brought to the fiscal agent's attention which causes question of continued eligibility. This could include such items as falsification of time sheets, misuse of SPAS Program funds, and any other violation of the policy stated herein. This information shall be provided to the LRS Program Coordinator for disposition. If the information provided is substantiated, this shall be reason for denial of services.

J. The fiscal agent shall provide the consumer/recipient with a copy of the SPAS Program Policy Manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993), LR 33:1149 (June 2007).

§1123. Evaluation Team Responsibilities

A. The evaluation team shall determine the eligibility of the person with a significant disability for the SPAS Program.

B. The evaluation team will re-evaluate the consumer/recipient of the SPAS Program through annual reviews of the reconsideration and personal assistance plan if applicable to determine the continued need for SPAS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1440 (November 1993), LR 33:1149 (June 2007).

§1125. Responsibilities of LRS in the Eligibility

Decision

A. The Director of Louisiana Rehabilitation Services shall designate the evaluation team who determines the eligibility of persons with significant disabilities for State Personal Assistance Services.

B. The Director of Louisiana Rehabilitation Services shall set the criteria for determining prioritization for serving individuals on the waiting list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1440 (November 1993), LR 33:1149 (June 2007).

§1127. Violations, Penalties, and Reasons for Closure

A. The following may result in termination of services or other penalties:

1. the individual no longer meets eligibility criteria;
2. the individual falsified information (time sheets, signed personal assistance provider's name to check and/or time sheets, etc.);
3. the individual failed to meet the contractual agreement with the fiscal agent's requirements;
4. the individual is unable to be contacted and/or whereabouts unknown for 90 days or more and no response after an attempted home visit and certified letter;
5. any other reason which is contradictory to policy and procedures for the SPAS Program.

B. Definitions

Fraud—use of trickery or deceit to receive benefits. For *fraud* to exist:

- a. misrepresentation of fact affecting eligibility, amount of benefits, and/or use of SPAS Program funds. The burden of proof that fraud exists is on the fiscal agent;
- b. the misrepresentation must have been made knowingly and with deceitful intent.

Intentional Program Violation—made a false or misleading statement, or misrepresented, concealed or withheld fact; or committed any act that constitutes a violation of the SPAS Program or SPAS policy and/or procedures. Also, a consumer/recipient who repeatedly fails to comply with the policies and/or procedures of the SPAS Program would be in violation of §1127.

C. Warning. The contractor/fiscal agent should issue a "warning" to consumer/recipients who commit a violation of policy, such as failure to comply with terms of the service plan between the consumer/recipient and fiscal agent. The fiscal agent will determine if the violation was intentional. If the violation is not intentional, written notice of the violation and action to correct the violation is to be given to the consumer/recipient. A copy of the notice to the consumer/recipient is to be placed in the consumer/recipient's case record. Repeat of the violation should be brought to the attention of the LRS Program Coordinator for consideration of termination.

D. Recoupment

1. In lieu of termination, the contractor/fiscal agent can demand that a consumer/recipient refund the SPAS Program for all benefits received because of a violation as listed above.

2. If the contractor/fiscal agent rules that the consumer/recipient must repay the amount in question, the contractor/fiscal agent will determine the repayment schedule. Consumer/recipient can remain eligible as long as recoupment is made and a willingness to comply with policies and procedures set forth in the SPAS Program are shown. The contractor/fiscal agent shall maintain close monitoring of the consumer/recipient until such time the contractor/fiscal agent determines consumer/recipient is complying with the policies and procedures.

3. Recoupment is required from fraudulently received benefits as well; however, the consumer/recipient will not be eligible for further services.

E. Termination. The contractor/fiscal agent may terminate an individual who violates the policy and/or procedures of the SPAS Program. The determination to terminate will be based on the severity of the violation(s) and/or continued violation(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:1251 (November 1995), amended LR 33:1149 (June 2007).

§1129. Procedures for Termination and/or Appeals

A. When a consumer/recipient is terminated from this program:

1. the contractor/fiscal agent will send a termination letter to the consumer/recipient that explains the reason and right to an appeal;

2. the contractor/fiscal agent should provide the consumer/recipient with a copy of "Applicant and Consumer/Recipient Appeal Rights" contained in the SPAS Program Policy Manual;

3. if the consumer/recipient appeals, he/she will continue to receive services until the appeals process is completed;

4. the consumer/recipient will be notified when the appeal process is completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (November,

1993), amended LR 21:1252 (November 1995), LR 33:1150 (June 2007).

Ann Silverberg Williamson
Secretary

0706#057

RULE

**Department of Treasury
Board of Trustees of the Louisiana
State Employees' Retirement System**

Domestic Relations Orders (LAC 58:I:4131)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has amended LAC 58:I.4131. The Rule amendment affects participants in the Self-Directed Plan of DROP ("SDP") who have been directed by a court, through a Domestic Relations Order ("DRO"), to divide DROP funds with a former spouse. When LASERS receives a properly worded and accepted DRO, it divides DROP funds accordingly and sets up a second account in the name of the former spouse of the participant, which the former spouse controls. The Rule amendment is designed to minimize the possibility of market losses to those funds belonging to the former spouse in the period between movement into the SDP and transfer of the proper portion into the account of the former spouse. This Rule amendment complies with and is enabled by R.S. 11:451.4 and R.S. 11:515.

Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement

Chapter 41. Self-Directed Plan

§4131. Domestic Relations Orders

A. In all instances wherein a person participating in the SDP is a party to a Domestic Relations Order ("DRO"), properly worded and approved by LASERS, and such DRO is to divide DROP funds with the participant's former spouse, LASERS shall establish a means whereby the former spouse may choose the investment options for his or her portion of the SDP. Until such time as the portion belonging to the former spouse is placed in a separate SDP account in that person's name, those funds shall remain in a conservative fixed income investment vehicle within the SDP such as a stable value fund.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:451.4 and 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1308 (June 2004), amended LR 33:1150 (June 2007).

Cindy Rougeou
Executive Director

0706#035

RULE

**Department of Treasury
Board of Trustees of the Teachers' Retirement System**

Monthly Salaries and Contributions Report
(LAC 58:III.101)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees of Teachers' Retirement System of Louisiana (TRSL) has amended LAC 58:III.101 regarding the submission requirements for monthly contribution reports and to implement submission requirements for contributions correction reports. These amendments and additions are all in accordance with authority granted the TRSL Board of Trustees in R.S. 11:873(2). The following provisions shall become effective July 1, 2007.

**Title 58
RETIREMENT**

Part III. Teachers' Retirement System of Louisiana

Chapter 1. General Provisions

§101. Mandatory Submission of Monthly Salaries and Contributions Reports and Contributions Correction Reports (Form 4B)

A. Monthly Salaries and Contributions Reports. Each month all employers shall certify to the Board of Trustees, by means of file transfer protocol, diskette, or by on-line web based reporting, the amounts of each employee's salary, and the amounts of deductions from the employee's salary to be paid to the annuity savings fund and then credited to the individual accounts of the employee from whose compensation the deductions were made. All file transfer protocol, diskette, and web based reporting formats must be in compliance with criteria established by Teachers' Retirement System of Louisiana as provided in the Employer Procedures Manual. All certified monthly salaries and contributions reports must be submitted by the fifteenth day of the month following the month covered by the report.

1. All employers with 25 or more employees being reported must submit monthly salaries and contributions reports by file transfer protocol or by diskette.

2. All employers reporting fewer than 25 employees must submit monthly salaries and contributions reports by file transfer protocol, diskette, or Teachers' Retirement System of Louisiana's secure on-line web-based inquiry system.

B. Contributions Correction Reports (Form 4B)

1. All employers must submit Contributions Correction Reports (Form 4B) using Teachers' Retirement System of Louisiana's secure on-line web-based inquiry system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:873(2).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1242 (December 1996), repromulgated LR 24:499 (March 1998), amended LR 33:1151 (June 2007), effective July 1, 2007.

A. Stuart Cagle, Jr.
Deputy Director

0706#028

RULE

**Department of Treasury
Board of Trustees of the Louisiana
State Employees' Retirement System**

Newly Elected Trustees
(LAC 58:I.301 and 501)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has amended LAC 58:I.301 and 501. The Rule amendments affect newly elected trustees and will move the orientation for these new trustees from the board meeting in December to the following month of January. These Rule amendments comply with and are enabled by R.S. 11:511 and 515.

**Title 58
RETIREMENT**

Part I. Louisiana State Employees' Retirement System

Chapter 3. Election of Active Member Trustees

§301. General Schedule of Elections

A. ...

B. The schedule for elections shall be as follows:

1. - 7. ...

8. January following election: newly elected members receive orientation; oaths shall be taken prior to the regular January meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 33:1151 (June 2007).

Chapter 5. Election of Retired Member Trustees

§501. General Schedule of Elections

A. ...

B. The schedule for elections shall be as follows:

1. - 7. ...

8. January following election: newly elected members receive orientation; oaths shall be taken prior to the regular January meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11: 511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 33:1151 (June 2007).

Cindy Rougeou
Executive Director

0706#036

RULE

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

Bird Dog Training Areas (LAC 76:V.321)

The Department of Wildlife and Fisheries and Wildlife and Fisheries Commission does hereby amend the rules for bird dog training areas on wildlife management areas.

**Title 76
WILDLIFE AND FISHERIES**

Part V. Wild Quadrupeds and Wild Birds

Chapter 3. Wild Birds

§321. Bird Dog Training Areas

A. Purpose. Bird dog training areas (BDTA) are established to afford users of Wildlife Management Areas (WMA) and other public land an opportunity to train pointing dogs and flushing retrievers or spaniels with live released birds. The BDTA is not intended to serve as a hunting preserve. The following regulations are adopted to ensure that users of the BDTA utilize the area as intended, and to minimize the potential for negative impacts on wildlife.

B. Establishment and Posting. BDTAs may be established on any WMA or other public land with written consent of the managing agency. Portions of the WMA/public land without significant wild quail populations, and where wildlife will not be negatively impacted are suitable for establishment of BDTAs. BDTAs must be marked with signs and/or paint clearly indicating the boundaries.

C. Permits and Licenses. Each party using the BDTA for dog training must include at least one permittee, and the permittee must have a valid permit in his/her possession while engaged in dog training on the BDTA. For purposes of this Rule, a person or party will be considered to be engaged in dog training if they possess or release live bobwhite quail, mallards, or pigeons at any time, or if they are present on the BDTA with pointing dogs, spaniels or retrievers during the time quail, woodcock, dove, or waterfowl season is closed on the WMA/public land. Each BDTA requires a unique permit and permits are valid only on the specific BDTA for which the permit is issued. Permits will not be issued to applicants with Class 2 or higher wildlife violation convictions or guilty pleas within three years of the date of application. All users of the BDTA must comply with the WMA/public land self-clearing permit requirements. Any person who takes or attempts to take released or wild bobwhite quail, mallards, or pigeons on the BDTA must comply with applicable hunting license and WMA/public land permit requirements.

D. Dogs. Only recognizable breeds of pointing dogs, spaniels, and retrievers may be trained on the BDTA. All dogs must wear a collar or tag imprinted with the name and phone number of the owner or trainer. Trainers shall not knowingly allow or encourage their dogs to pursue rabbits, raccoons, or other wildlife.

E. Birds. Only bobwhite quail, mallards, or pigeons may be released for dog training activities on the BDTA. However, use of pigeons and mallards may be prohibited on specific BDTAs. Bobwhite quail, mallards, and pigeons may only be released within the boundaries of the BDTA. Bobwhite quail, mallards, and pigeons may be shot in conjunction with dog training activities. When WMA/public land hunting seasons are closed, only bobwhite quail, mallards, and pigeons may be taken and possessed. When the WMA/public land quail, waterfowl, or woodcock hunting season is closed, bobwhite quail, mallards, and pigeons may only be shot within the boundaries of the BDTA. No more than six quail or mallards per day may be released, taken, or possessed per permittee. For example, a

party consisting of one permit holder and two helpers may not possess, release, or take more than six quail or mallards per day. Wild quail may be taken on the BDTA at any time the BDTA is open to dog training and must be included in the six-bird limit. There is no limit on the number of pigeons that may be taken, released, or possessed. All quail must be marked with a department provided leg band prior to entering the WMA/public land, and if the bird is shot or recaptured, the band must remain on the bird until arrival at the trainer's domicile. All mallards must be toe-clipped or fitted with a seamless band, or otherwise marked in accordance with federal regulations. Wild quail taken on the BDTA must immediately be marked with a LDWF issued band. Pigeons are not required to be banded. Bands will be provided by LDWF when the permit is issued. Persons in possession of live bobwhite quail or mallards must have a valid game breeder's license or bill of sale from a licensed game breeder.

F. Firearms. When the WMA/public land hunting seasons are closed, only shotguns with shells containing shot not larger than Lead Size 8 or Steel Size 6 are permitted on the BDTA. Mallards may only be taken with steel or other approved non-toxic shot. Firearms must be encased or broken down upon entering and leaving the BDTA when the WMA hunting seasons are closed. Pistols capable of firing only blanks are also permitted.

G. Seasons. Unless specified, BDTAs are open to dog training all year. Closure periods may be adopted for some BDTAs. Such closure periods will be listed on each BDTA annual permit.

H. Hunter Orange Requirements. Persons engaged in dog training on BDTAs during WMA hunting seasons must comply with WMA/public land hunter orange requirements.

I. Wildlife Management Area/Public Land Regulations. Except as provided herein, all rules and hunting seasons applicable to the WMA/public land on which the BDTA is located are also applicable to the BDTA. Additional regulations may be adopted for some BDTAs and will be listed on each BDTA annual permit.

J. Violation of Rules. A person who is convicted or enters a guilty plea for violation of any provision of this Rule shall be guilty of a Class 2 violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:109(B), R.S. 56:115, and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:2268 (September 2005), amended LR 33:1152 (June 2007).

Bryant O. Hammett, Jr.
Secretary

0706#050

RULE

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

Possession of Exotics (LAC 76:V.115)

The Wildlife and Fisheries Commission has amended the regulations to control importation and private possession of big exotic cats in Louisiana.

**Title 76
WILDLIFE AND FISHERIES**

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§115. Possession of Potentially Dangerous Wild Quadrupeds, Big Exotic Cats, and Non-Human Primates

A. This commission finds that possession of certain potentially dangerous quadrupeds, big exotic cats, and non-human primates poses significant hazards to public safety and health, is detrimental to the welfare of the animals, and may have negative impacts on conservation and recovery of some threatened and endangered species.

1. The size and strength of such animals in concert with their natural and unpredictable and/or predatory nature can result in severe injury or death when an attack upon a human occurs. Often such attacks are unprovoked and a person other than the owner, often a child, is the victim. Furthermore, there is no approved rabies vaccine for such animals, so even minor scratches and injuries inflicted upon humans or other animals could be deadly.

2. Responsible possession of these potentially dangerous wild quadrupeds, big exotic cats, and non-human primates necessitates that they be confined in secure facilities. Prolonged confinement is by its nature stressful to these animals and proper long-term care by experienced persons is essential to the health and welfare of these animals and to society.

3. Certain of these animals are listed as endangered species and others are so similar in appearance to endangered subspecies as to make practical distinction difficult. This similarity of appearance may provide a means to market illegally obtained endangered animals and can limit the effective enforcement of endangered species laws.

B. This commission regulation prohibits importation and private possession, and otherwise regulates certain wild quadrupeds, big exotic cats, and non-human primates as provided herein.

C.1. Except as provided herein, it shall be unlawful to import into, possess, purchase or sell within the state of Louisiana, by any means whatsoever including but not limited to transactions conducted via the internet, any of the following species or its subspecies of live wild quadrupeds, big exotic cats, or non-human primates, domesticated or otherwise (hereinafter "listed animals"):

- a. black bear (*Ursus americanus*);
- b. grizzly bear (*Ursus arctos*);
- c. polar bear (*Ursus maritimus*);
- d. red wolf (*Canis rufus*);
- e. gray wolf (*Canis lupus*);
- f. wolf dog hybrid (*Canis lupus* or *Canis rufus* x *Canis familiaris*);
- g. all non-human primates;
- h. the following big exotic cats:
 - i. tigers;
 - ii. lions;
 - iii. leopards (including, but not limited to snow leopard and clouded leopard);
 - iv. jaguars;
 - v. cheetahs;
 - vi. cougars or mountain lions (*Felis concolor*);
 - vii. all subspecies of the above listed exotic cats;

viii. hybrids resulting from cross breeding of the above listed exotic cats.

2. Holders of a Potentially Dangerous Wild Quadruped Permit allowing possession of any listed animal, where the permit is valid on the effective date of this regulation, will be "grandfathered" and the permit will be renewed annually until existing permitted captive animals expire, or are legally transferred out of state, or are transferred to a suitable facility. No additional listed animals may be acquired by any means whatsoever, including breeding.

D.1. Wolf-Dog Hybrids. The prohibition against wolf-dog hybrids expired January 1, 1997. Persons are cautioned that local ordinances or other state regulations may prohibit possession of these animals. Any animal which appears indistinguishable from a wolf, or is in any way represented to be a wolf shall be considered to be a wolf in the absence of bona fide documentation to the contrary.

E. Exempted Entities. The following organizations and entities shall be exempt from this regulation, including permitting:

1. zoos accredited or certified by the American Zoo and Aquarium Association (AZA);

2. research facilities as defined in the Animal Welfare Act as found in the United States Code Title 7, Chapter 54, §2132(e), including but not limited to the University of Louisiana at Lafayette Primate Center, the Tulane National Primate Research Center, and Chimp Haven, Inc., located in Shreveport, LA; and

3. any person transporting any listed animal through the state if the transit time is not more than 24 hours and the animal is at all times maintained within a confinement sufficient to prevent escape and contact with the public. Exhibiting the listed animal, in any manner, is prohibited;

4. circuses, limited to those temporarily in this state, offering varied performances by live animals, clowns, and acrobats for public entertainment, and which are incorporated Class C licensees under Chapter I of Title 9 of the Code of Federal Regulations. Notwithstanding the above, circuses do not include entertainment that includes any listed animal in any type of wrestling, photography opportunity with a patron, or an activity in which any listed animal and a patron are in close contact with each other;

5. Louisiana colleges or universities, for possession of a big exotic cat of the species traditionally kept by that college or university as a school mascot, after proper documentation to the department that the college or university has consistently over the years possessed a big exotic cat as its mascot.

F. Permitted Entities. The following organizations and entities may be exempted from this regulation after applying for and receiving a permit from the department to possess any listed animal under the following conditions:

1. other zoos and educational institutions not covered under Paragraphs E.1-2 above. The secretary shall determine whether to issue a permit and any conditions for the permit on a case by case basis;

2. animal sanctuaries accredited or certified by the American Zoo and Aquarium Association (AZA). Permitted sanctuaries are prohibited from exhibiting, breeding, or selling any listed animal. Listed animals must be surgically sterilized or separately housed to prevent breeding. Listed

animals must be housed in such a manner as to prevent public contact and in compliance with the enclosure rules provided herein in Subsection I. Permitted animal sanctuaries are prohibited from transporting these animals to any public building or place where they may come into contact with the public including, but not limited to schools, hospitals, malls, private residences, or other commercial or retail establishments.

G. Non-Human Primates

1. As provided below, the following individuals may be exempted from this regulation after applying for and receiving a permit from the department to possess a non-human primate. The permit will be for one year and must be renewed annually under the following conditions:

a. a physically challenged individual who has exclusive possession of no more than one monkey that is working to aid and assist said individual with his/her disability and where the monkey has been obtained through and trained by a licensed and accredited non-profit organization dedicated to improving the quality of lives for physically challenged;

b. an individual who legally possesses one or more non-human primates immediately prior to the effective date of this regulation and who can prove legal ownership is authorized to keep those non-human primates but is prohibited from acquiring any additional non-human primates by any means whatsoever, including breeding;

c. the individuals listed in this Subsection must annually apply for and receive a permit from the department. The permit application shall include:

i. the name, address, telephone number, and date of birth of applicant;

ii. a description of each non-human primate applicant possesses, including the scientific name, sex, age, color, weight, and any distinguishing marks;

iii. a photograph of each non-human primate and its permanent enclosure;

iv. the physical location where the non-human primate is to be kept;

v. proof of legal ownership. (Proof of legal ownership includes original purchase documents, veterinary records, or other documentation, acceptable to the department demonstrating ownership);

vi. the microchip or tattoo number of each non-human primate;

vii. a health certificate signed by a licensed veterinarian within one year prior to the date of the application stating that the animal is free of all symptoms of contagious and/or infectious diseases at the time of the examination and that all appropriate tests and preventative measures have been performed as deemed necessary by the veterinarian.

2. Permit holders must house their non-human primates in such a manner as to prevent public contact and are prohibited from transporting their non-human primate to any public building or place where the public may come into contact with the non-human primate, including, but not limited to schools, hospitals or malls.

3. Permit holders must have their non-human primates examined annually by a licensed veterinarian to insure that the animal is free of all symptoms of contagious and/or infectious diseases at the time of examination and all

appropriate tests and preventative measures have been performed as deemed necessary by the veterinarian.

4. Permit holders are required to report any escapes to the department within 24 hours of discovery of the escape.

5. Permit holders are required to submit any changes to the permit information provided in the permit application within 30 days of the date those changes take effect or the permit will be considered invalid.

H. Big Exotic Cats. An individual who legally possesses one or more exotic cats listed in Subparagraph C.1.h. above on August 15, 2006 (the effective date of Act 715 of the Regular Session of 2006) and who can prove legal ownership is authorized to keep those exotic cats under the following conditions.

1. Only those exotic cats legally possessed on August 15, 2006 will be permitted. Additional exotic cats cannot be acquired by any means whatsoever, including breeding.

2. The individuals listed in this Subsection must annually apply for and receive a permit from the department. The permit application shall be on a form provided by the department and require:

a. the name, address, telephone number, driver's license number, and date of birth of applicant;

b. a description of each exotic cat applicant possesses, including the scientific name, sex, age, color, weight, and any distinguishing marks;

c. one or more photographs of each exotic cat and its permanent enclosure;

d. the physical location where each exotic cat is to be kept;

e. proof of legal ownership of the exotic cat on August 15, 2006. Proof of legal ownership includes original purchase documents, veterinary records, or other documentation, acceptable to the department, demonstrating ownership;

f. the microchip number of each exotic cat;

g. a health certificate signed by a licensed veterinarian within one year prior to the date of the application. The certificate shall include the name, address, and license number of the examining veterinarian;

h. a written plan for the quick and safe recapture or destruction of an escaped exotic cat listed in the permit. This plan must also be filed with the local sheriff's department, and police department if applicable;

i. statement that permittee has legal authority to possess weapons and/or other equipment necessary to carry out the plan provided in Subparagraph H.2.h;

j. signed agreement, on a form provided by the department, indemnifying and holding harmless the state, department, and other applicable public agencies and employees, including agents, contractors, and the general public from any claims for damages resulting from the permitted exotic cat(s);

k. signed agreement that the permittee will be responsible for any and all costs associated with the escape, capture, and disposition of a permitted exotic cat;

l. proof of liability insurance from an A-rated or higher insurance company in the amount of \$100,000 for each exotic cat, up to a maximum of \$1,000,000, valid and effective continuously for the entire permit term. The policy shall specifically include a provision requiring notice from

the carrier to the secretary of the department a minimum of thirty days prior to cancellation of the policy.

3. Permitted exotic cats must be prevented from breeding by separate housing or sterilization. Sterilization records must be kept on the premises and available for inspection by the department.

4. Permittee or designee must live on the premises. Designee must have the ability to carry out all requirements of the permittee.

5. Department personnel shall be allowed access to inspect the permitted exotic cat(s), facilities, equipment, and records for the purpose of ensuring compliance with these regulations.

6. A weapon capable of destroying the animal(s), and a long range delivery method for chemical immobilization shall be kept on the premises at all times. Additionally, the applicant shall provide a signed statement from a licensed veterinarian identifying a designated veterinarian who will be on-call and available at all times to deliver chemical immobilization in the event of an escape.

7. Clearly legible signs, approved by the department, shall be posted and displayed at each possible entrance onto the premises where the permitted exotic cat is located. The signs shall clearly state "Danger, Wild Animal On Premises" with letters of a size and font easily readable from 30 feet away.

8. Each permitted exotic cat must be implanted with a microchip by or under the supervision of a licensed veterinarian.

9. Each permitted exotic cat must remain in its enclosure on the property listed in the permit at all times and cannot be removed from the enclosure for any reason. However, the exotic cat may be removed for proper medical care for medical emergencies or medical procedures, but only under the direction of a licensed veterinarian.

10. Permittee must notify the department, the local sheriff's department, and police department if applicable, immediately upon discovery that the permitted exotic cat is no longer in its enclosure.

11. Permittee must notify the department prior to any disposition of a permitted exotic cat, including transportation out-of-state. The department reserves the right to supervise and accompany any such disposition.

12. Permitted exotic cats must be kept in a sanitary and safe condition and may not be kept in a manner that results in the maltreatment or neglect of the exotic cat. This includes, but is not limited to:

a. drinking water must be provided in clean containers, pools must be cleaned as needed to ensure good water quality, enclosures must have adequate surface water drainage, and hard floor surfaces must be regularly scrubbed and disinfected;

b. food must be unspoiled and not contaminated, and be of a type and quantity sufficient to meet the nutritional requirements of the permitted exotic cat;

c. fecal and food waste must be removed from enclosures daily and disposed of in a manner that prevents noxious odors and insect and other pests;

d. sufficient shaded areas must be available for each exotic cat that is maintained in an enclosure, regardless of group rank or status.

13. In addition to complying with this regulation, permittee must comply with any and all applicable federal, other state, or local law, rule, regulation, ordinance, permit, or other permission. Failure to comply with any such law, rule, regulation, ordinance, permit, or other permission constitutes a violation of this regulation.

I. Enclosure Requirements—minimum pen/enclosure requirements are as follows.

1. Bears:

a. single animal: 25 feet long x 12 feet wide x 10 feet high, covered roof;

b. pair: 30 feet long x 15 feet wide x 10 feet high, covered roof;

c. materials: chain link 9 gauge minimum;

d. safety perimeter rail;

e. pool: 6 feet x 4 feet x 18 inches deep with facilities for spraying or wetting bear(s).

2. Wolf:

a. 15 feet long x 8 feet wide x 6 feet high per animal, covered roof;

b. secluded den area: 4 feet x 4 feet for each animal;

c. materials: chain link wire or equivalent;

d. safety perimeter rail.

3. Cougar, Mountain Lion:

a. single animal: 10 feet long x 8 feet wide x 8 feet high, covered roof;

b. pair: 15 feet long x 8 feet wide x 8 feet high, covered roof;

c. materials: chain link 9 gauge minimum;

d. safety perimeter rail;

e. claw log;

f. shelf: 24 inch wide x 8 feet long, 40 inches off floor.

4. Big Exotic Cats:

a. enclosures shall be constructed and covered at the top with nine gauge steel chain link or equivalent, with tension bars and metal clamps;

b. enclosures must be well braced and securely fastened to the floor or ground and shall utilize metal clamps or braces of equivalent strength as that proscribed for cage construction;

c. enclosures shall be secured by at least two sets of doors, so that the first door must be closed before the second door is opened. The inside door to the animal enclosure must open in. These doors must remain locked at all times when unattended. The doors must be designed so that the frame, hasps and locks are of sufficient strength to restrain the exotic cat;

d. a perimeter fence of at least 8 feet in height (secondary barrier) and located a minimum of 5 feet from the enclosure sufficient to prevent unauthorized entry or direct physical contact with the exotic cat;

e. the mesh size and/or distance between bars for all enclosures and fences shall be sufficiently small to prevent escape and/or direct physical contact with the exotic cat;

f. enclosures shall include a den area or other connected housing unit in which the exotic cat may be secured for the safe servicing and cleaning of the remaining enclosure. This area shall be constructed with steel, reinforced cinder block, or concrete sufficient to withstand damage from high winds, hard rains, hail, and other natural phenomenon.

J. Penalty for Violation. Unless another penalty is provided by law, violation of these regulations will be a Class Two violation as defined in Title 56 of the Louisiana Revised Statutes. In addition, upon conviction for violation of these regulations, any license/permit may be revoked and the quadrupeds or other animals seized in connection with the violation will be forfeited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(31), R.S. 56:115, R.S. 56:171, and R.S. 56:1904F.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:1356 (December 1995), amended LR 32:647 (April 2006), LR 33:1153 (June 2007).

Bryant O. Hammett, Jr.
Secretary

0706#052

RULE

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

Reef Fish (LAC 76:VII.335)

The Wildlife and Fisheries Commission has amended LAC 76:VII.335, modifying the recreational take and possession limit for red grouper, establishing a closed season for recreational harvest of gag, black and red grouper, prohibiting captain and crew from for-hire vessels from retaining bag limits of any grouper species while under charter, modifying rules for commercial harvest of red snapper and establishing a permanent trip limit for commercial harvest of groupers, which are parts of the existing rule for daily take, possession, and size limits for reef fishes set by the commission. Authority for adoption of this Rule is included in R.S. 56:6(25)(a), 56:320.2, 56:326.1 and 56:326.3.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 3. Saltwater Sport and Commercial Fishery
§335. Reef Fish—Harvest Regulations**

A. Recreational bag limits regarding the harvest of reef fish—triggerfishes, amberjacks, grunts, wrasses, snappers, groupers, sea basses, tilefishes, and porgies, within and without Louisiana's territorial waters.

1. - 3. ...

4. Red hind, rock hind, speckled hind, black red grouper, snowy grouper, yellowedge grouper, yellowfin grouper, yellowmouth grouper, warsaw grouper, gag grouper, scamp	5 fish per person per day (in aggregate) with not more than 1 speckled hind and 1 warsaw grouper per vessel and with not more than 1 red grouper per person included in the bag limit
---	---

A.5. - B.5. ...

C. Charter Vessels and Headboats

1. - 2. ...

3. Captain and crew members shall not harvest or possess grouper of any species while operating as charter vessels and headboats as defined in Federal Regulations 50 CFR Part 622.2—their bag limit is zero for all of these species.

D. Red Snapper

1. All persons aboard a vessel for which no commercial vessel permit for Gulf reef fish has been issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to the recreational bag limit for red snapper which may not be bartered or sold. No person aboard any vessel shall commercially possess, sell, barter, trade, exchange or attempt to sell, barter trade or exchange red snapper unless possessing a federal permit for the harvest of Gulf of Mexico Reef Fish and a federal red snapper Individual Fishing Quota (IFQ) vessel endorsement.

2. Requirement for IFQ Vessel Endorsement and Allocation: In addition to the federal commercial vessel permit for Gulf reef fish, in order to fish for, possess, or land Gulf red snapper, regardless of where harvested or possessed, a federal Gulf red snapper IFQ vessel endorsement must have been issued to the vessel and be on board. No person shall commercially harvest or land red snapper without holding or being assigned federal IFQ allocation at least equal to the pounds of red snapper landed/docked at a shore side location or off loaded. On the last fishing trip of the year a vessel may exceed by 10 percent the remaining IFQ allocation.

3. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any red snapper in excess of any possession limit for which federal commercial license, permit and appropriate allocation were issued.

4. Requirement for IFQ dealer endorsement: In addition to the requirement for a federal dealer permit for Gulf reef fish, for a dealer to receive Gulf red snapper from a commercial fishing vessel he must have a federal Gulf red snapper IFQ dealer endorsement. For a person aboard a vessel with a federal Gulf red snapper IFQ vessel endorsement to sell to anyone other than a permitted dealer, such person must also have a federal Gulf red snapper IFQ dealer endorsement.

5. Requirement for Transaction Approval Code: The owner or operator of a vessel landing red snapper is responsible for calling National Marine Fisheries Service (NMFS) Office of Law Enforcement at least three hours, but no more than 12 hours, in advance of landing to report the time and location of landing and the name of the IFQ dealer where the red snapper are to be received. Failure to comply with this advance notice of landing requirement will preclude authorization to complete the required NMFS landing transaction report and, thus, will preclude issuance of the required NMFS-issued transaction approval code. Possession of commercial red snapper from the time of transfer from a vessel through possession by a dealer is prohibited unless the red snapper are accompanied by a transaction approval code verifying a legal transaction of the amount of red snapper in possession.

6. Offloading and Transfer: No person shall offload from a vessel or receive from a vessel commercially harvested red snapper during the hours from 6 p.m. until 6 a.m., local time. No person who is in charge of a commercial red snapper fishing vessel shall offload red snapper from the vessel prior to three hours after proper notification is made to NOAA Fisheries. At-sea or dockside

transfer of commercial red snapper from one vessel to another vessel is prohibited.

7. VMS requirement: No person shall commercially harvest red snapper from a vessel unless that vessel is equipped with a fully operational and federally approved Vessel Monitoring System (VMS) device. Approved devices are those devices approved by National Oceanographic and Atmospheric Administration (NOAA) Fisheries and operating under the requirements mandated by NOAA Fisheries.

E. - E.13. ...

F. Definitions: Federal regulations 50 CFR Part 622.2 defines charter vessels and headboats as follows.

1. *Charter Vessel*—a vessel less than 100 gross tons that meets the requirements of the U.S. Coast Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year. A charter vessel with a commercial permit is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

2. *Headboat*—a vessel that holds a valid Certificate of Inspection issued by the U.S. Coast Guard to carry passengers for hire. A headboat with a commercial vessel permit is considered to be operating as a headboat when it carries a passenger who pays a fee or, in the case of persons aboard fishing for or possessing coastal migratory fish or Gulf reef fish, when there are more than three persons aboard, including operator and crew.

G. Seasons

1. Seasons for the commercial harvest of reef fish species or groups shall be closed within and without Louisiana's territorial waters during the periods listed below. Possession of reef fish in excess of the daily bag limit while on the water is prohibited during the specified closed season. Any reef fish harvested during the closed season shall not be purchased, sold, traded, bartered or exchanged or attempted to be purchased, sold, traded, bartered or exchanged. This prohibition on sale/purchase does not apply to reef fish that were harvested, landed ashore, sold and purchased prior to the closed season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing reef fish taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Species or Group	Closed Season
a. greater amberjack	March 1 through May 31
b. gag, black and red grouper	February 15 through March 14
c. vermilion snapper	April 22 through May 31

2. Seasons for the recreational harvest of reef fish species or groups listed below shall be closed during the periods listed below.

Species or Group	Closed Season
a. gag, black and red grouper	February 15 through March 14

3. Persons aboard a vessel for which the permits indicate both charter vessel/headboat for Gulf reef fish and

commercial Gulf reef fish may continue to retain reef fish under the recreational take and possession limits specified in §335.A and §335.C, recreational seasons specified in §335.G.2 and size limits specified in §335.E, provided the vessel is operating as a validly licensed charter vessel or headboat with prepaid recreational charter fishermen aboard the vessel.

4. The provisions of §335.G apply to fish taken within or without Louisiana's territorial waters.

H. Commercial Grouper Trip Limits

1. Those persons possessing a federal commercial vessel permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to a commercial trip limit of 6,000 pounds gutted weight of deep-water and shallow-water grouper per vessel combined, during the open seasons for each of those species groups.

2. When the commercial season for each species or species groups is closed, the commercial trip limit for that species or species group is zero. Effective with any commercial trip or possession limit under this rule, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell, or attempt to purchase, exchange, barter, trade or sell the affected species or species group, whether taken from within or without Louisiana territorial waters in excess of such established commercial trip or possession limit.

I. Wholesale dealers are required to comply with the provisions of R.S. 56:306.5 and R.S. 56:306.6 when acquiring, purchasing, possessing and selling reef fish. Wholesale dealers shall maintain approval codes issued by NOAA Fisheries associated with all transactions of red snapper on purchases and sales on records.

J. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15, for reef fishes while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange reef fishes within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:320.2(C), 56:326.1, and 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138, 1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:3166 (December 2005), LR 33:1156 (June 2007).

Bryant O. Hammett, Jr.
Secretary

0706#051

Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.603, 613, and 4313)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC Part Number LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's Accountability System is an evolving system with different components. §603 is revised to include all students in the state-level cohort regardless of entry or exit dates. §613 is revised to clarify that schools cannot be awarded points for students designated as attendees if they are dropouts; changes the points awarded for School Performance Scores for students receiving TOPS award or completing TOPS programs; changes the points awarded for students receiving an academic endorsement. §4313 is revised to omit the District Responsibility Index label as a trigger for districts to enter District Improvement status; mandate timeframes for these districts to submit District Improvement Plans to the LDE and for the LDE to review require districts to implement these approved Plans; describes sanctions for districts entering District Improvement in line with current law, requiring that they either implement a new curriculum, arrange for particular schools to come under public governance per R.S. 17:1990, or authorize students to transfer to a higher-performing public school operated by another local educational agency after reaching an agreement with the other LEA.

Title 28 EDUCATION

Part LXXXIII. Bulletin III—The Louisiana School, District, and State Accountability System

Chapter 6. Graduation Index

§603. Determining a Cohort for a Graduation Index

A. - H. ...

I. All cohort members, regardless of entry or exit dates, are included in the state-level cohort.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 33:424 (March 2007), LR 33:

§613. Calculating a Graduation Index

A. ...

1. Students who do not dropout and do not April 2007 NOI earn a diploma, a GED, a Skills Certificate, or a

Certificate of Achievement after 4 years of high school are defined as attendees.

Student Result	Points
Academic Endorsement	180
TOPS Opportunity Award OR Career/Technical Endorsement	160
BESE Approved Industry Based Certification OR TOPS Tech and Dual Enrollment OR TOPS Tech and Articulated Credit	140
Regular HS Diploma	120
GED	90
Skills Certificate/Certificate of Achievement	60
Attendee	30
Dropout	0

B. - E. ...

Sample Graduation Index Calculation			
Student Count	Result	Points Per	Points
2	Academic Endorsements	180	360
8	TOPS Opportunity Award OR Career/Technical Endorsement	160	1280
15	BESE Approved Industry Based Certification OR TOPS Tech and Dual Enrollment OR TOPS Tech and Articulated Credit	140	2100
20	Regular Diploma	120	2400
10	GED	90	900
6	Skills Certificate or Certificate of Achievement	60	360
4	Attendee	30	120
15	Dropout	0	0
80 Total Students			7520
Attendee from prior year earned GED (90-30)			60
Attendee from prior year earned Skills Cert. (60-30)			30
Dropout from prior year earned Reg. Diploma (120-0)			120
Total Incentive Points			210
Total Points			7730
7730 ÷ 80 =		Graduation Index	96.6

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1025 (June 2006), amended LR 33:

Chapter 43. District Accountability §4313. Corrective Actions

A. ...

B. Districts shall be evaluated on the subgroup component. Districts that fail all clusters, in the same subject, on the subgroup component shall complete a district self-assessment and submit it to the Louisiana Department of Education.

1. - 2. ...

C. Districts that are identified for improvement by the subgroup component shall write District Improvement Plans

based on the prior years' self-assessments and submit those plans to the LDE within 60 days of identification.

1. ...
2. The DOE shall review each District Improvement Plan and within 30 days of receipt of the plan, recommend revisions until the plan is deemed acceptable.
3. ...
4. The district shall implement the District Improvement Plan immediately upon approval by the DOE.

D. Districts that fail in all grade-clusters, in the same subject, to achieve AYP in the subgroup component for a third consecutive year or in 2 consecutive years of the next 3 years shall enter District Improvement Level 2 and have a district level scholastic audit conducted by the LDE.

E. Districts that fail all three grade-clusters for which they entered District Improvement the year following or 2 of the 3 years following entry into District Improvement Level 2 shall enter District Improvement Level 3 and address the findings of the district level scholastic audit immediately upon identification by implementing one of the following.

1. Fully implement a new curriculum that is based on state standards, providing appropriate professional development that offers substantial promise of improving educational achievement (funding requirements listed in NCLB).

2. Remove particular schools from the jurisdiction of the local educational agency and establish arrangements for public governance and supervision of such schools as provided in R.S. 17:1990 and Chapter 24: Recovery School District.

3. Authorize students to transfer to a higher-performing public school operated by another local educational agency after reaching an agreement with the other LEA.

F. Districts shall exit District Improvement if they pass Subgroup AYP in the same subject for which they entered District Improvement in the same cluster for 2 consecutive years. An example is in the following table.

Examples of Districts That Entered District Improvement (DI) in 2004 Due to Math Results.							
	2005			2006			Result
	K-5	6-8	9-12	K-5	6-8	9-12	
Cluster Performance	Pass	Fail	Fail	Fail	Pass	Pass	Remain in DI
	Pass	Pass	Pass	Fail	Fail	Fail	Advance to DI Level 2
	Pass	Fail	Fail	Pass	Fail	Fail	Exit DI
	Fail	Pass	Pass	Fail	Fail	Pass	Exit DI

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2757 (December 2003), amended LR 30:1449 (July 2004), LR 31:424 (February 2005), LR 31:635 (March 2005), LR 31:1256 (July 2005), LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office, which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., August 9, 2007, to Nina Ford, State Board of

Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 111—The Louisiana School, District, and State Accountability System

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

Bulletin 111 §603 is revised to include all students in the state graduation rate regardless of entry or exit dates.

§613 is revised to clarify that schools cannot be awarded points for students designated as attendees if they are dropouts; changes the points awarded for School Performance Scores for students receiving TOPS award or completing TOPS programs; changes the points awarded for students receiving an academic endorsement.

§4313 is revised to omit the District Responsibility Index label as a trigger for districts to enter District Improvement status; mandate timeframes for these districts to submit District Improvement Plans to the LDE and for the LDE to review and require districts to implement these approved Plans; describes sanctions for districts entering District Improvement in line with current law, requiring that they either implement a new curriculum, arrange for particular schools to come under public governance per R.S. 17:1990, or authorize students to transfer

to a higher-performing public school operated by another local educational agency after reaching an agreement with the other LEA.

There are no estimated implementation costs (savings) to state or local governmental units as a result of these changes.

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

There will be no effect on revenue collections of state or local governmental units.

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

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
Management and Finance
0706#009

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices (LAC 28: CXI. 305, 2012-2029, and 3507)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 118—Statewide Assessment Standards and Practices*. Bulletin 118 contains the Board of Elementary and Secondary Education (BESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The purpose of this project is to provide information regarding the division of Chapter 3, Test Security, §305.A.14, into two separate entries; the addition of Achievement Level Descriptors for LAA 2 in Chapter 20; and revisions to Chapter 35, Assessment of Students in Special Circumstances.

The document will consolidate statewide test information and provide easy access to that information. It is necessary to revise the bulletin at this time to incorporate guidelines for newly developed statewide assessments used in testing and add new language to established assessment guidelines.

Title 28 EDUCATION

Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 3. Test Security

§305. Test Security Policy

A. - A.13. ...

14. School districts must ensure that individual student test data are protected from unauthorized access and disclosure.

a. The Louisiana Department of Education's LEAPdata Query is designed for teachers and contains students' private information, including state test scores and state identification numbers. The system is password protected and requires a user ID and an assigned password

for access. The system is not for public use, and any student information from the system must not be disclosed to anyone other than a state, district, or school official as defined by the Family Educational Rights and Privacy Act of 1974 (FERPA). A state, district, or school official is a person employed by the state, district, or school as an administrator, supervisor, district test coordinator, school test coordinator, principal, teacher, or principal's designated office staff. Such a user must have a legitimate educational purpose to review an educational record in order to fulfill his/her professional responsibility. Curiosity does not qualify as a right to know. State, district and school officials who are granted a password to these systems must abide by FERPA law. Disclosure of passwords to anyone other than those authorized is prohibited. Disclosure of a student's data to their parent or guardian must be in accordance with FERPA. For more information on FERPA, see the U.S. Department of Education Web page at <http://www.ed.gov/offices/OM/fpco/ferpa/>.

i. LEAPdata Query System. Principals should contact their DTC or Backup DTC for assistance in training teachers. After teaching, all school users (e.g., teachers, counselors, test coordinators) must read and sign the security agreement and return it to the principal. A new security agreement should be signed by all users each year after the new password letters for schools are automatically generated in August. If a breach in security occurs, principals should immediately contact the DTC or the backup DTC for a replacement password. Principals should always contact their DTC or backup DTC for assistance and training.

b. The Louisiana Department of Education's LEAPweb Reporting System is designed for administrators only and contains students' private information, including state test scores and state identification numbers. The system is password protected and requires a user ID and an assigned password for access. The system is not for public use and any student information from the system must not be disclosed to anyone other than a state, district, or school official as defined by the Family Educational Rights and Privacy Act of 1974 (FERPA). A state, district, or school official is a person employed by the state, district, or school as an administrator, supervisor, district test coordinator, school test coordinator, principal, and the principal's designated office staff. Such a user must have a legitimate educational purpose to review an educational record in order to fulfill his/her professional responsibility. Curiosity does not qualify as a right to know. State, district, and school users who are granted a password to this system must read and abide by Family and Educational Rights Privacy Act (FERPA). Disclosure of passwords to anyone other than those authorized is prohibited. Disclosure of a student's data to their parent or guardian must be in accordance with FERPA. For more information on FERPA, see the U.S. Department of Education Web page at <http://www.ed.gov/offices/OM/fpco/ferpa/>.

i. LEAPweb Reporting System. At the school level, only principals (not teachers) and their designated school personnel (test coordinators, counselors, or office staff with whom the principal shares his/her PIN) should have access to the system and must sign a security agreement. A new security agreement should be signed by all users each year after the new password letters for schools

are automatically generated in August. If a breach in security occurs, principals should immediately contact the DTC or the backup DTC for a replacement password. Principals should always contact their DTC or Backup DTC for assistance and training.

ii. Security agreements must also be signed by DTCs for the LEAPweb Reporting and LEAPdata Query Systems and returned to the LDE.

c. All users who have access to these systems and leave their positions at a district or school site must not use or share the password.

15. - 17. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.7 (C) (G).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007), LR 33:424 (March 2007), LR 33:

Chapter 20. LEAP Alternate Assessment, Level 2

Subchapter D. Achievement Level Descriptors

§2012. Grade 5 Achievement Level Descriptors

A. Grade 5 English Language Arts Achievement Level Descriptors

Basic
<p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate overall understanding of what they read; 2. answer literal questions and make simple inferences about information in texts; 3. identify story elements, literary devices, and author's purpose; 4. research a topic by locating information in a variety of print and electronic resources; 5. express some creative and/or critical thinking in response to a writing task, characterized by a central idea, observable organization, and supporting details; and 6. demonstrate audience awareness through use of grade-appropriate vocabulary, sentence variety, and evidence of personal style or voice.
Approaching Basic
<p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate partial understanding of what they read; 2. identify stated main idea in text, make simple inferences, and draw connections to personal experiences; 3. research a topic by locating some information in commonly used print and electronic resources; 4. demonstrate inconsistent control in response to a writing task, characterized by a weak central idea, weak organization, and few supporting details; and 5. demonstrate limited audience awareness through use of simple but appropriate vocabulary, simple sentence structures, and few elements of personal style.

Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate minimal understanding of what they read; 2. make minimal connections between information in texts and personal experiences; 3. research a topic by locating minimal information in a few commonly used resources; 4. develop a minimal response to a writing task, characterized by a weak central idea, little observable organization, and few supporting details; and 5. demonstrate minimal audience awareness through the use of limited vocabulary, simple sentence structures, and little or no personal style or voice.
Pre-Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate at least minimal understanding of what they read; 2. make at least minimal connections between information in texts and personal experiences; 3. research a topic by locating at least minimal information in a few commonly used resources; 4. develop at least a minimal response to a writing task, characterized by a weak central idea, little observable organization, and few supporting details; and 5. demonstrate at least minimal audience awareness through the use of limited vocabulary, simple sentence structures, and little or no personal style or voice.

B. Grade 5 Mathematics Achievement Level Descriptors

Basic
<p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. solve real-life problems using whole numbers; 2. use estimation strategies and mental math to determine reasonable values and solutions; 3. use variables and open sentences to express number relationships; 4. identify solutions to equations describing real-life situations; 5. identify positive solutions to inequalities on a number line; 6. use appropriate tools and procedures to measure accurately and to estimate and calculate measurements; 7. identify points on a coordinate grid; 8. identify basic geometric transformations and symmetries; 9. organize and display data using tables and graphs; 10. represent probabilities as common fractions between 0 and 1, inclusive; and 11. recognize and describe how number patterns and patterns in real-life situations are increasing, decreasing, or repeating.

Approaching Basic
A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.
Students scoring at this level generally exhibit the ability to:
<ol style="list-style-type: none"> 1. demonstrate an understanding of relations among fractions, including mixed numbers, and relations among decimals; 2. solve simple problems involving whole number properties and relationships; 3. demonstrate understanding of the connection between models and mathematical language; 4. choose tools necessary to measure accurately; 5. recognize and classify common two-dimensional figures by attributes; 6. read tables and graphs and use the data to solve simple problems; 7. describe the likelihood of events occurring in real-life situations; and 8. identify missing elements in a variety of patterns.
Foundational
A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.
Students scoring at this level generally exhibit the ability to:
<ol style="list-style-type: none"> 1. demonstrate some understanding of relations among fractions, including mixed numbers, and relations among decimals; 2. solve a limited number of simple problems involving whole number properties and relationships; 3. demonstrate some understanding of the connection between models and mathematical language; 4. choose—with limited degree of accuracy or with some consistency—tools necessary to measure accurately; 5. recognize and classify a limited number of common two-dimensional figures by attributes; 6. show minimal skills in reading tables and graphs and using the data to solve simple problems; 7. inconsistently describe the likelihood of events occurring in real-life situations; and 8. identify missing elements in a limited number of patterns.
Pre-Foundational
A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.
Students scoring at this level need to develop the ability to:
<ol style="list-style-type: none"> 1. demonstrate at least some understanding of relations among fractions, including mixed numbers, and relations among decimals; 2. solve at least a limited number of simple problems involving whole number properties and relationships; 3. demonstrate at least some understanding of the connection between models and mathematical language; 4. choose—with at least some degree of accuracy—tools necessary to measure accurately; 5. recognize and classify at least a limited number of common two-dimensional figures by attributes; 6. show at least some skills in reading tables and graphs and using the data to solve simple problems; 7. at least minimally describe the likelihood of events occurring in real-life situations; and 8. identify missing elements in at least a limited number of patterns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, State Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:

§2013. Grade 6 Achievement Level Descriptors

A. Grade 6 English Language Arts Achievement Level Descriptors

Basic
A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.
Students scoring at this level generally exhibit the ability to:
<ol style="list-style-type: none"> 1. demonstrate overall understanding of what they read; 2. identify main ideas and supporting details, and answer literal and simple inferential questions; 3. research a topic by locating information in a variety of electronic and print resources (e.g., newspapers, magazines, brochures, maps, legends); 4. express some creative and/or critical thinking in response to a writing task, characterized by a central idea, observable organization, and supporting details; and 5. demonstrate audience awareness through use of grade-appropriate vocabulary, a variety of sentence structures, and evidence of personal style or voice.
Approaching Basic
A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.
Students scoring at this level generally exhibit the ability to:
<ol style="list-style-type: none"> 1. demonstrate partial understanding of what they read; 2. identify some literal and implied information and stated main ideas in text and make connections to personal experience; 3. research a topic by locating some information in commonly used electronic and print resources; 4. demonstrate inconsistent control in response to a writing task, characterized by a weak central idea, some evidence of organization, few transitions, and few supporting details; and 5. demonstrate limited audience awareness through use of simple but appropriate vocabulary, simple sentence structures, and few elements of personal style.
Foundational
A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.
Students scoring at this level generally exhibit the ability to:
<ol style="list-style-type: none"> 1. demonstrate minimal understanding of what they read; 2. identify concrete ideas and make minimal connections between information in texts and personal experiences; 3. research a topic by locating minimal information in a few commonly used resources; 4. construct a minimal response to a writing task, characterized by a weak central idea, little observable organization, and a few supporting details; and 5. demonstrate minimal audience awareness through the use of limited vocabulary, simple sentences, and limited evidence of elements of personal style or voice.
Pre-Foundational
A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.
Students scoring at this level need to develop the ability to:
<ol style="list-style-type: none"> 1. demonstrate at least minimal understanding of what they read; 2. identify concrete ideas and make at least minimal connections between information in texts and personal experiences; 3. research a topic by locating at least minimal information in a few commonly used resources; 4. construct at least a minimal response to a writing task, characterized by a weak central idea, little observable organization, and a few supporting details; and 5. demonstrate at least minimal audience awareness through the use of limited vocabulary, simple sentences, and limited evidence of elements of personal style or voice.

B. Grade 6 Mathematics Achievement Level Descriptors

Basic
<p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> show understanding of the relationships among fractions and decimals; solve simple proportions by using models and in real-life situations; estimate and solve simple problems involving one or two computations, including addition and subtraction of fractions and decimals; evaluate simple expressions involving one variable and formulas involving one or two variables, by substituting whole numbers; solve simple equations, using a variety of strategies; use algebraic and numeric expressions and equations to describe relationships; recognize and use measuring tools appropriate for given tasks; demonstrate an understanding of the magnitude and relative size of common units of measure; find perimeter and area of simple geometric figures; name and describe two- and three-dimensional geometric shapes; recognize and use transformations of simple geometric shapes; demonstrate an understanding of data represented in a variety of displays; recognize basic concepts of probability, and determine probabilities of simple events; and extend and describe simple arithmetic and geometric patterns.
Approaching Basic
<p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> recognize and identify ratios, fractions, decimals, and percents from models and in real-life situations; locate and compare integers on a number line; complete a simple input/output table; recognize common units of length and area; find horizontal and vertical lengths of simple geometric figures graphed on a grid; recognize and name basic geometric shapes; interpret data from a graph; determine possible results and likelihood of favorable outcomes of simple events; and identify missing elements in a variety of number patterns.
Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> demonstrate minimal recognition and identification of ratios, fractions, decimals, and percents from models and in real-life situations; locate and compare—with some degree of accuracy—integers on a number line; demonstrate some evidence of completing a simple input/output table; recognize a few common units of length and area; show minimal skills in finding horizontal and vertical lengths of simple geometric figures on a grid; recognize and name a limited number of basic geometric shapes; show limited skills in interpreting data from a graph; determine possible results and likelihood of favorable outcomes of some simple events; and identify missing elements in a limited number of number patterns.

Pre-Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> demonstrate at least minimal recognition and identification of ratios, fractions, decimals, and percents from models and in real-life situations; locate and compare—with at least some degree of accuracy—integers on a number line; demonstrate at least some evidence of completing a simple input/output table; recognize at least a few common units of length and area; show at least minimal skills in finding horizontal and vertical lengths of simple geometric figures graphed on a grid; recognize and name at least a limited number of basic geometric shapes; show at least limited skills in interpreting data from a graph; determine possible results and likelihood of favorable outcomes of at least some simple events; and identify missing elements in at least a limited number of number patterns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, State Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:

§2014. Grade 7 Achievement Level Descriptors

A. Grade 7 English Language Arts Achievement Level Descriptors

Basic
<p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> demonstrate overall understanding of what they read; identify main ideas and supporting details, story elements (including character motivation and plot sequence), and author's purpose; extend ideas in text by making simple inferences and drawing conclusions; research a topic by locating and interpreting information in a variety of print and electronic resources; express some critical and/or creative thinking in response to a writing task; develop an appropriate response to a writing task, characterized by a central idea, observable organization, simple transitions, and supporting details; and demonstrate audience awareness through use of grade-appropriate vocabulary, sentence variety, and evidence of personal style or voice.
Approaching Basic
<p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> demonstrate partial understanding of what they read; identify some literal and implied information and stated main ideas, basic story elements, some literary devices, and an author's purpose; research a topic by locating some information in electronic and print resources; demonstrate inconsistent control in response to a writing task, characterized by a weak central idea, weak organization, and few supporting details; and demonstrate limited audience awareness through the use of simple vocabulary, simple sentences, and few elements of personal style.

Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate minimal understanding of what they read; 2. construct minimal interpretations and/or extensions of text; 3. research a topic by locating minimal information in a commonly used print or electronic resources; 4. construct a minimal response to a writing task, characterized by a weak central idea, some observable organization, and some supporting information; and 5. demonstrate minimal audience awareness through use of simple vocabulary, simple sentences, and little or no personal style or voice.
Pre-Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate at least minimal understanding of what they read; 2. construct at least minimal interpretations and/or extensions of text; 3. research a topic by locating at least minimal information in commonly used print or electronic resources; 4. construct at least a minimal response to a writing task, characterized by a weak central idea, some observable organization, and some supporting information; and 5. demonstrate at least minimal audience awareness through the use of simple vocabulary, simple sentences, and little or no personal style or voice.

B. Grade 7 Mathematics Achievement Level Descriptors

Basic
<p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. estimate and compute equivalent fractions, percents, and decimals; 2. solve one- and two-step real-life problems involving equations and inequalities; 3. evaluate formulas or expressions involving one or two variables, by substituting whole numbers; 4. use algebraic expressions, equations, and inequalities to describe numerical relationships; 5. convert between common measurements in the same system, and compare and order benchmark measurements between systems; 6. calculate circumference and area of circles; 7. draw and identify angles and measurements in simple polygons and circles; 8. recognize geometric transformations; 9. demonstrate understanding of graphs involving continuous data and discrete data; 10. compute simple probabilities and use basic mathematical terms associated with probability, such as event and favorable outcomes; and 11. recognize, describe, and extend patterns.

Approaching Basic
<p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. compare and order rational numbers; 2. solve single-step problems involving positive rational numbers; 3. match algebraic expressions, equations, and inequalities to verbal statements; 4. order measurements within the same system; 5. determine area and perimeter of simple geometric shapes; 6. identify points in all four quadrants of a coordinate grid; 7. interpret discrete data from a variety of graphs; 8. represent the probabilities of simple events as common fractions, given sample space and number of favorable outcomes; and 9. extend simple number patterns.
Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. compare and order—with some consistency—rational numbers; 2. solve some single step problems involving positive rational numbers; 3. match some algebraic expressions, equations, and inequalities to verbal statements; 4. order a limited number of measurements within the same system; 5. determine area and perimeter of a limited number of simple geometric shapes; 6. identify a few points in all four quadrants of a coordinate grid; 7. interpret discrete data from a limited number of graphs; 8. represent some probabilities of simple events as common fractions, given sample space and number of favorable outcomes; and 9. extend some simple number patterns.
Pre-Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. compare and order—with at least some consistency—rational numbers; 2. solve at least some single-step problems involving positive rational numbers; 3. match at least some algebraic expressions, equations, and inequalities to verbal statements; 4. order at least a limited number of measurements within the same system; 5. determine area and perimeter of at least a limited number of simple geometric shapes; 6. identify at least a few points in all four quadrants of a coordinate grid; 7. interpret discrete data from at least a limited number of graphs; 8. represent at least some probabilities of simple events as common fractions, given sample space and number of favorable outcomes; and 9. extend at least some simple number patterns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, State Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:

§2015. Grade 8 Achievement Level Descriptors

Editor's Note: This Section has been moved from §2013.

A. Grade 8 English Language Arts Achievement Level Descriptors

Basic
<p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate both literal and overall understanding of what they read; 2. identify some elements of text and an author's purpose; 3. extend the ideas in text by making simple inferences and drawing conclusions; recognize and relate connections among ideas in texts by drawing conclusions; 4. research a topic by selecting and using information in various sources; 5. express some critical and/or creative thinking in response to a writing task; 6. develop a central idea with a consistent focus, appropriate organization, and elaboration with some supporting details; and demonstrate audience awareness through use of appropriate but general language, and some sentence variety, and a sense of personal style.
Approaching Basic
<p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate partial understanding of what they read; 2. make a few interpretations and extensions of ideas in texts; 3. make simple and broad connections between text and personal experiences; 4. research a topic by locating some information in commonly used sources; 5. demonstrate a partial response to a writing task; 6. develop a weak central idea with some evidence of organization and elaboration with few or inappropriate supporting details; and demonstrate limited awareness of audience through use of simple or inappropriate vocabulary and simple sentences.
Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate partial understanding of what they read; 2. make a few interpretations and extensions of ideas in the texts; 3. make simple and broad connections between the text and personal experiences; 4. research a topic by locating some information in commonly used sources; 5. demonstrate a partial response to a writing task; 6. develop a weak central idea with some evidence of organization and elaboration with a few or inappropriate supporting details; and 7. demonstrate limited awareness of audience through use of simple or inappropriate vocabulary and simple sentences.
Pre-Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. understand what they read; 2. make minimal interpretations and extensions of ideas in the text; 3. locate some information within commonly used sources; 4. develop a response to a writing task with some evidence of a central idea, attempted organization, and some supporting details; and 5. show minimal audience awareness through use of simple vocabulary and simple sentences.

B. Grade 8 Mathematics Achievement Level Descriptors

Basic
<p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. complete problems correctly with the help of prompts such as diagrams, charts, and graphs; 2. solve routine, real-world problems through the appropriate selection and use of strategies and technological tools—including calculators and geometric shapes; 3. use fundamental algebraic and informal geometric concepts in problem solving; 4. determine which available data are necessary and sufficient for correct solutions and use them in problem solving; and 5. show limited skill in communicating mathematically.
Approaching Basic
<p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. complete problems correctly with the help of prompts such as diagrams, charts, and graphs; 2. solve one-step problems involving basic computation (+, -, x, ÷) and follow procedural steps with instructional assistance; 3. recognize basic geometric figures; 4. recognize simple, obvious patterns; 5. use tools of technology; 6. apply conceptual knowledge inconsistently; and 7. demonstrate difficulty in transferring knowledge and skills to problem-solving situations.
Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. complete a limited number of problems correctly with the help of prompts such as diagrams, charts, and graphs; 2. solve few one-step problems involving basic computation (+, -, x, ÷) and follow procedural steps with detailed instructional assistance; 3. recognize a limited number of basic geometric figures; 4. recognize a limited number of simple, obvious patterns; 5. minimally use the tools of technology; 6. show minimal or inconsistent application of conceptual knowledge; and 7. demonstrate minimal or inappropriate transfer of knowledge and skills to problem-solving situations.
Pre-Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. complete a limited number of problems correctly with the help of prompts such as diagrams, charts, and graphs; 2. solve few one-step problems involving basic computations (+, -, x, ÷) and follow procedural steps with detailed instructional assistance; 3. recognize a limited number of basic geometric figures; 4. recognize a limited number of simple, obvious patterns; 5. minimally use the tools of technology; 6. show minimal application of conceptual knowledge; and 7. demonstrate minimal transfer of knowledge and skills to problem-solving situations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:272 (February 2007), amended LR 33:

§2016. Grade 9 Achievement Level Descriptors

A. Grade 9 English Language Arts Achievement Level Descriptors

Basic
<p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate overall understanding of what they read; 2. identify main points or ideas in text and extend ideas in text by drawing conclusions, making inferences, and identifying explicit cause/effect relationships; 3. identify story elements, literary devices, and author's purpose or viewpoint; 4. research a topic by locating and interpreting information in a variety of electronic and print resources; 5. express some critical and/or creative thinking in response to a writing task; 6. construct an appropriate multiparagraph response to a writing task, characterized by a central idea, observable organization, simple transitions, and supporting information; and 7. demonstrate audience awareness through intentional use of appropriate vocabulary, sentence variety, and personal style or voice.
Approaching Basic
<p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate partial understanding of what they read; 2. identify literal and implied information and stated main ideas in text, story elements, some literary devices, and author's purpose; 3. research a topic by locating information in electronic and print resources; 4. demonstrate inconsistent control in response to a writing task, characterized by a weak central idea, some evidence of organization and transitions, and few supporting details; and 5. demonstrate limited audience awareness through the use of simple vocabulary, simple sentence structures, and few elements of personal style.
Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate minimal understanding of what they read; 2. construct minimal interpretations and/or extensions of text; 3. research a topic by locating minimal information in commonly used print or electronic resources; 4. develop a minimal response to a writing task, characterized by a weak central idea, limited observable organization, and some supporting information; and 5. demonstrate minimal audience awareness in written responses through the use of simple vocabulary, simple sentences, and little or no personal style or voice.
Pre-Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate at least minimal understanding of what they read; 2. construct at least minimal interpretations and/or extensions of text; 3. research a topic by locating at least minimal information in commonly used print or electronic resources; 4. develop at least a minimal response to a writing task, characterized by a weak central idea, limited observable organization, and some supporting information; and 5. demonstrate at least minimal audience awareness in written responses through the use of simple vocabulary, simple sentences, and little to no personal style or voice.

B. Grade 9 Mathematics Achievement Level Descriptors

Basic
<p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. simplify numerical expressions involving multiple operations, using order of operations; 2. represent numbers as exponential expressions with positive, integral exponents; 3. use proportional reasoning to solve real-life problems; 4. use algebraic expressions, equations, and inequalities to describe tables and verbal statements in real-life situations; 5. solve multi-step equations and inequalities in one variable; 6. choose appropriate common units (U.S. and metric) to make measurements; 7. demonstrate understanding of precision and accuracy; 8. solve simple problems involving indirect measurement in real-life situations; 9. recognize and graph linear equations to interpret and solve real-life problems, and use appropriate terminology to describe slope, intercept, point, intersection, etc.; 10. draw translations and line reflections in a coordinate system; 11. read, organize, construct, and interpret data presented in a variety of formats and make generalizations using these representations; and 12. demonstrate a fundamental understanding of graphical representations of functions.
Approaching Basic
<p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate understanding of different number systems, including whole numbers, integers, rational numbers, and real numbers; 2. perform basic operations with positive rational numbers; 3. determine whether problems require exact or approximate solutions; 4. recognize ratios and proportions that describe real-life situations; 5. use calculators to evaluate polynomials for given values of the variables; 6. solve single-step equations and inequalities in one variable; 7. estimate, calculate, and make measurements using common units of measure; 8. locate points on a coordinate grid; 9. recognize geometric transformations on a coordinate grid; 10. match data displays to real-life situations, and vice versa; 11. follow and interpret processes expressed in flow charts; and 12. recognize and describe coordinate graphs of functions.
Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate some understanding of different number systems, including whole numbers, integers, rational numbers, and real numbers; 2. perform a few basic operations with positive rational numbers; 3. determine—with some consistency—whether problems require exact or approximate solutions; 4. recognize some ratios and proportions that describe real-life situations; 5. minimally use calculators to evaluate polynomials for given values of the variables; 6. solve some single-step equations and inequalities in one variables; 7. estimate, calculate, and make measurements—with a limited degree of accuracy—using common units of measure; 8. show limited skills in locating points on a coordinate grid; 9. recognize a limited number of geometric transformations on a coordinate grid; 10. match some data displays to real-life situations, and vice versa;

<ol style="list-style-type: none"> 11. follow and interpret some processes expressed in flow charts; and 12. minimally recognize and describe coordinate graphs of functions.
Pre-Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate at least some understanding of different number systems, including whole numbers, integers, rational numbers, and real numbers; 2. perform at least a few basic operations with positive rational numbers; 3. determine—with at least some consistency—whether problems require exact or appropriate solutions; 4. recognize at least some ratios and proportions that describe real-life situations; 5. at least minimally use calculators to evaluate polynomials for given values of the variables; 6. solve at least some single-step equations and inequalities in one variable; 7. estimate, calculate, and make measurements—with at least a limited degree of accuracy—using common units of measure; 8. show at least limited skills in locating points on a coordinate grid; 9. recognize at least a limited number of geometric transformations on a coordinate grid; 10. match at least some data displays to real-life situations, and vice versa; 11. follow and interpret at least some processes expressed in flow charts; and 12. at least minimally recognize and describe coordinate graphs and function.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, State Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:

§2017. Grade 10 Achievement Level Descriptors

Editor's Note: This Section has been moved from §2015.

A. Grade 10 English Language Arts Achievement Level Descriptors

Basic
<p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate overall understanding of what they read and make some interpretations; 2. identify elements of text and an author's style; 3. extend ideas in text by making simple inferences and some connections to personal experiences; 4. research a topic by selecting and using information in various sources; 5. demonstrate some evidence of critical, analytical, and/or creative thinking in response to a writing task; 6. develop a response with a central idea, evidence of some observable organization, and elaboration with some supporting details; and 7. demonstrate audience awareness through a sense of personal style or voice and some variety in vocabulary and sentence structure.
Approaching Basic
<p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate partial understanding of what they read; 2. identify some elements of text and an author's purpose; 3. make simple or broad connections between text and personal experiences;

<ol style="list-style-type: none"> 4. research a topic by locating information in commonly used sources; 5. demonstrate a partial response to a writing task; 6. develop a response with a weak central idea, some evidence of organization, and minimal elaboration or supporting details; and 7. demonstrate limited audience awareness through use of weak personal style or voice, simple or inappropriate vocabulary, and simple sentences.
Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate a minimal understanding of what they read; 2. identify few elements of text and an author's purpose; 3. make minimal connections between text and personal experiences; 4. research a topic by locating minimal information in commonly used sources; 5. demonstrate a minimal response to a writing task; 6. develop a response with a weak or unfocused idea, attempted organization, and little or irrelevant support; and 7. demonstrate minimal audience awareness through use of weak personal style or voice, simple or inappropriate vocabulary, and simple sentences.
Pre-Foundational
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. understand what they read; 2. identify some elements of text; 3. make minimal connections between text and personal experiences; 4. locate information within commonly used sources; 5. develop a response to a writing task using a general focus, attempted organization, and minimal support; and 6. demonstrate minimal audience awareness through use of simple vocabulary and simple sentences.

B. Grade 10 Mathematics Achievement Level Descriptors

Basic
<p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use estimation to verify solutions and determine the reasonableness of results as applied to routine real-world problems; 2. use algebraic and geometric reasoning strategies to solve problems; 3. recognize relationships presented in verbal, algebraic, tabular, and graphical forms; 4. demonstrate knowledge of geometric relationships and corresponding measurement skills; 5. apply statistical reasoning in the organization and display of data and in reading tables and graphs; 6. generalize from patterns and examples in the areas of algebra, geometry, and statistics; 7. use correct mathematical language and symbols to communicate mathematical relationships and reasoning processes; and 8. use calculators appropriately to solve problems.
Approaching Basic
<p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use estimation and measurement to verify solutions and determine the reasonableness of results as applied to routine real-world problems;

<ol style="list-style-type: none"> show limited use of fundamental algebraic, geometric, and statistical reasoning in problem solving; interpret data presented in various forms; show limited skills in communicating mathematically; and demonstrate limited application of conceptually knowledge.
Foundational
A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.
Students scoring at this level generally exhibit the ability to: <ol style="list-style-type: none"> use some estimation and measurement to verify solutions and determine the reasonableness of results as applied to routine real-world problems; show minimal knowledge of fundamental algebraic, geometric, and statistical reasoning in problem-solving; interpret data presented in limited forms; show minimal skills in communicating mathematically; and demonstrate minimal or inappropriate application of conceptual knowledge.
Pre-Foundational
A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.
Students scoring at this level need to develop the ability to: <ol style="list-style-type: none"> use some estimation and measurement to verify solutions and determine the reasonableness of results as applied to routine real-world problems; show minimal knowledge of fundamental algebraic, geometric, and statistical reasoning in problem-solving; interpret data presented in limited forms; show minimal skills in communicating mathematically; and demonstrate minimal application of conceptual knowledge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:273 (February 2007), LR 33:

§2019. Grade 11 Achievement Level Descriptors

Editor's Note: This Section has been moved from §2017.

A. Grade 11 Science Achievement Level Descriptors

Basic
A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.
Students scoring at this level generally exhibit the ability to: <ol style="list-style-type: none"> formulate valid hypotheses; design a simple experiment; draw appropriate conclusions; develop inferences from experimentation and apply that information to new situations; distinguish scientific principles from pseudoscience; and apply scientific principles to their everyday life.
With inquiry as the core, students at the Basic level begin to identify unifying concepts and processes among the science disciplines—physical, life, earth/space, and the environmental sciences.
Approaching Basic
A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.
Students scoring at this level generally exhibit the ability to: <ol style="list-style-type: none"> know and understand fundamental science facts and concepts concerning the world; and make observations, form a reasonable hypothesis, identify variables, interpret data, and draw conclusions.
These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.
Foundational
A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the

foundational knowledge and skills that can be built upon to access the grade-level curriculum.
Students scoring at this level generally exhibit the ability to: <ol style="list-style-type: none"> demonstrate limited knowledge and understanding of fundamental science facts and concepts concerning the world; and make simple observations, attempt to form a hypothesis, identify a limited number and type of variables, minimally interpret data, and draw conclusions that may be inappropriate or inaccurate.
These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.
Pre-Foundational
A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.
Students scoring at this level need to develop the ability to: <ol style="list-style-type: none"> demonstrate knowledge and understanding of fundamental science facts and concepts concerning the world with minimal accuracy or consistency; and make simple observations, attempt to form a hypothesis, identify a limited number and type of variables, minimally interpret data, and draw conclusions.
These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.

B. Grade 11 Social Studies Achievement Level Descriptors

Basic
A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.
Students scoring at this level generally exhibit the ability to do the following: <ol style="list-style-type: none"> Geography: interpret geographical data, describe the basic physical structure of the planet, and explain the spatial relationships between humans and their environment. Civics: explain structure and purposes of government, describe the foundations of the American political system, explain international relationships, and describe the roles of citizen. Economics: describe fundamental economic concepts, explain decisions made by consumers, businesses, and government; and explain U.S. fiscal policy. History: describe continuity and change, describe the significance of people, places, events, ideas, and documents, and examine relevant experiences from the past to describe contemporary issues.
Approaching Basic
A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.
Students scoring at this level generally exhibit the ability to do the following: <ol style="list-style-type: none"> Geography: identify geographical data, recognize the physical structure of the planet, and state the spatial relationships between humans and their environment. Civics: identify the structure and purposes of government, recognize the foundations of the American political system, identify international relationships, and identify the roles of citizen. Economics: identify fundamental economic concepts, identify decisions made by consumers, businesses, and government; and identify U.S. fiscal and monetary policies. History: recognize continuity and change, recognize the significance of people, places, events, ideas, and documents, and identify relevant experiences from the past to describe contemporary issues.
Foundational
A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level generally exhibit the ability to do the following:

1. Geography: identify limited geographical data, recognize a limited number of physical structures of the planet, and state a limited number of spatial relationships between humans and their environment.
2. Civics: demonstrate limited knowledge about the structure and purposes of government, demonstrate a limited understanding or recognition of the foundations of the American political system, identify a few international relationships, and identify the role of citizens with only some consistency.
3. Economics: demonstrate limited knowledge or understanding of fundamental economic concepts, identify a limited number and type of decisions made by consumers, businesses, and government; and show minimal understanding of U.S. fiscal and monetary policies.
4. History: demonstrate limited recognition of continuity and change, recognize the significance of a limited number of people, places, events, ideas and documents, and identify a limited number of relevant experiences from the past to describe contemporary issues.

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to do the following:

1. Geography: identify geographical data, recognize physical structures of the planet, and state the spatial relationships between humans and their environment.
2. Civics: demonstrate knowledge about the structure and purposes of government, demonstrate an understanding or recognition of the foundations of the American political system, identify international relationships, and identify the role of citizens.
3. Economics: demonstrate knowledge or understanding of fundamental economic concepts, identify types of decisions made by consumers, businesses, and government, and show understanding of U.S. fiscal and monetary policies.
4. History: demonstrate recognition of continuity and change, recognize the significance of people, places, events, ideas, and documents, and identify relevant experiences from the past to describe contemporary issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:274 (February 2007), amended LR 33:

Subchapter E. LAA 2 Assessment Structure

§2021. Content Standards

Editor's Note: This Section has been moved from §2019.

A. The LAA 2 tests measure knowledge and skills deemed necessary for students to become good scholars and productive citizens. This knowledge and these skills are reflected in the content standards that were approved in August 2005 by the SBESE.

B. The LAA 2 is based on academic content standards. Modifications in the test and item format allow students with persistent academic disabilities who are served under the Individuals with Disabilities Education Improvement Act (IDEA) to participate in academic assessments that are sensitive to measuring progress in their learning.

C. The LAA 2 assessments consist of fewer items than LEAP and GEE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F)(3) and R.S. 17:183.1-17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:275 (February 2007), amended LR 33:

§2023. English Language Arts Tests Structure

Editor's Note: This Section has been moved from §2021.

A. The English Language Arts tests have four sessions or subtests.

1. Writing. The Writing session requires students to produce a composition in response to a prompt. The writing session measures key aspects of English Language Arts Standards 2 and 3.

a. Standard 2. Students write competently for a variety of purposes and audiences.

b. Standard 3. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting.

2. Reading and Responding. The Reading and Responding session includes two short reading passages (fiction, nonfiction, no poetry), four multiple-choice and one short-answer item for each passage. Questions in this session measure key aspects of English Language Arts standards 1, 6, and 7.

a. Standard 1. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes.

b. Standard 6. Students read, analyze, and respond to literature as a record of life experiences.

c. Standard 7. Students apply reasoning and problem-solving skills to their reading, writing, speaking, listening, viewing, and visually representing.

3. Using Information Resources. The Using Information Resources session requires students to complete a specified task designed to measure standard 5.

a. Standard 5. Students locate, select, and synthesize information from a variety of texts, media, references, and technological sources to acquire and communicate knowledge. Test items appear next to the resource needed to locate each answer. This session includes five multiple-choice items and 1 short answer item.

4. Proofreading. The Proofreading session requires students to identify mistakes in grammar, usage, and mechanics. The session consists of eight multiple-choice items formatted with a sentence as the stem followed by four answer choices. Questions in this session measure key aspects of English Language Arts standard 3.

a. Standard 3. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:275 (February 2007), amended LR 33:

§2025. Mathematics Test Structure

Editor's Note: This Section has been moved from §2023.

A. The Mathematics test consists of three sessions:

1. two multiple-choice sessions; and
2. one constructed-response session.

B. The Mathematics test assesses the following strands:

1. Strand N: Number and Number Relations

a. Standard. In problem-solving investigations, students demonstrate an understanding of the real number system and communicate the relationships within that system using a variety of techniques and tools.

2. Strand A: Algebra
a. Standard. In problem-solving investigations, students demonstrate an understanding of concepts and processes that allows them to analyze, represent, and describe relationships among variable quantities and to apply algebraic methods to real-world situations.

3. Strand M: Measurement
a. Standard. In problem-solving investigations, students demonstrate an understanding of the concepts, processes, and real-life applications of measurement.

4. Strand G: Geometry
a. Standard. In problem-solving investigations, students demonstrate an understanding of geometric concepts and applications involving one-, two-, and three-dimensional geometry, and justify their findings.

5. Strand D: Data Analysis, Probability, and Discrete Math
a. Standard. In problem-solving investigations, students discover trends, formulate conjectures, regarding cause-and-effect relationships, and demonstrate critical-thinking skills in order to make informed decisions.

6. Strand P: Patterns, Relations, and Functions
a. Standard. In problem-solving investigations, students demonstrate an understanding of patterns, relations, and functions that represent and explain real-world situations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:275 (February 2007), amended LR 33:

§2027. Science Tests Structure

Editor's Note: This Section has been moved from §2025.

A. The Science tests consist of two sessions.

1. Session 1 uses a multiple-choice test items for grade 11 to assess concepts and skills in all five strands of science.

2. Session 2 consists of two short-answer questions that assess two of the four science content strands: Physical Science, Life Science, Earth and Space Science, and Science and the Environment. These questions allow students to reflect on an idea, demonstrate their understanding of concepts and processes of science, make meaning of a given set of data, or critique the information. The wording of the questions is direct and specific, and the questions focus on the quality of the students' knowledge.

B. The Science tests assess the following science strands.

1. Strand: Science as Inquiry

a. Standard. Students will do science by engaging in partial and full inquiries that are within their developmental capabilities.

2. Strand: Physical Science

a. Standard. Students will develop an understanding of the characteristics and interrelationships of matter and energy in the physical world.

3. Strand: Life Science

a. Standard. Students will become aware of the characteristics and life cycles of organisms and understand their relationships to each other and to their environment.

4. Strand: Earth and Space Science

a. Standard. Students will develop an understanding of the properties of earth materials, the structure of Earth's system, Earth's history, and Earth's place in the universe.

5. Strand: Science and the Environment

a. Standard. In learning environmental science, students will develop an appreciation of the natural environment, learn the importance of environmental quality, and acquire a sense of stewardship. As consumers and citizens, they will be able to recognize how our personal, professional, and political actions affect the natural world.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:276 (February 2007), amended LR 33:

§2029. Social Studies Tests Structure

Editor's Note: This Section has been moved from §2027.

A. The Social Studies tests consist of two sessions.

1. Session 1 consists of 32 multiple-choice test items for grade 11 that assess knowledge, conceptual understanding, and application of skills in all four social studies strands (i.e., Geography, Civics, Economics, and History). Items in Session 1 are intermingled across strands.

2. Session 2 consists of 2 open-ended questions calling for a constructed response and requiring higher-order thinking in a social studies context (e.g., grasping a concept, analyzing information, evaluating a principle, or applying a skill). Students may be required to construct or interpret a chart, graph, map, timeline, or other graphic representation; to supply a short written answer; or to produce a short writing in response to a social studies issue or problem. Each of the constructed-response items represents one of the four social studies strands. Each task in part B is scored on a 0 to 2 point scale.

B. The four social studies strands assessed are:

1. Strand G—Geography: Physical and Cultural Systems

a. Standard. Students develop a spatial understanding of Earth's surface and the processes that shape it, the connection between people and places, and the relationship between man and his environment.

2. Strand C—Civics: Citizenship and Government

a. Standard. Students develop an understanding of the structure and purposes of government, the foundations of the American democratic system, and the role of the United States in the world while learning about the rights and responsibilities of citizenship.

3. Strand E—Economics: Interdependence and Decision Making

a. Standard. Students develop an understanding of fundamental economic concepts as they apply to the interdependence and decision making of individuals, households, businesses, and governments in the United States and the world.

4. Strand H—History: Time, Continuity, and Change

a. Standard. Students develop a sense of historical time and historical perspective as they study the history of their community, state, nation, and world.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2)

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:276 (February 2007), amended LR 33:

Chapter 35. Assessment of Students in Special Circumstances

§3507. Office of Youth Development

A ...

B. If a student is 18 years of age by March 1, and:

1. is pursuing a high school diploma, he/she shall test; and

2. is not pursuing a high school diploma, he/she does not need to test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151.3 and R.S. 17:24.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1563 (July 2005), amended LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., August 9, 2007, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 118—Statewide Assessment Standards and Practices

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

The proposed rule consolidates into Bulletin 118 the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The proposed rule change will have no implementation cost to state or local governmental units.

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

There will be no effect on revenue collections at the state or local governmental levels.

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

There should be no effect on costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
Management and Finance
0706#010

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 124—Supplemental Educational Services (LAC 28:CXXV.Chapter 1)

Editor's Note: Policy language regarding Supplemental Educational Services is currently contained in Chapter 27 of *Bulletin 111—The Louisiana School, District, and State Accountability System*. The SES policies contained within Bulletin 111 will be repealed upon BESE's final adoption of *Bulletin 124—Supplemental Educational Services*.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement *Bulletin 124—Supplemental Educational Services*. Bulletin 124 will be printed in codified format as Title 28, Part CXXXV of the *Louisiana Administrative Code*. Bulletin 124 will be the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Supplemental Educational Services (SES) provisions of the No Child Left Behind Act. This is an update of federal and state policy. Bulletin 124 was developed as a result of the necessity to consolidate all necessary policies and procedures governing the initiative and make it more useful to the state's local school districts and SES providers operating in Louisiana.

Title 28

EDUCATION

Part CXXXV. Bulletin 124—Supplemental Educational Services

Chapter 1. Supplemental Educational Services

§101. Definition of Supplemental Educational Services

A. Supplemental educational services (SES) are defined by the United States Department of Education as "tutoring or extra help provided to students in reading, language arts/English, and math. This extra help can be provided before or after school, on weekends, or in the summer." The No Child Left Behind Act states that these services must be of high quality, research-based, and specifically designed to increase the academic achievement of eligible children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§103. Supplemental Educational Services Model

A. Louisiana's recommended model for the provision of effective supplemental educational services has three components:

1. assessment, or an appropriate process, to identify student weaknesses and achievement gaps that will be used to design instruction as well as to measure gains in student achievement for the purposes of provider accountability;

2. targeted remediation/instruction aimed at addressing the individual skill gaps revealed during the assessment and based upon an individual learning plan; and

3. post assessment to see if student gains occurred and a plan for either re-teaching skills or identifying new skill sets for instruction.

B. Student instruction will be in the areas of reading, English/language arts, and/or mathematics in order to help students achieve academic proficiency and should be based on Louisiana's academic content standards and the local district's instructional plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§105. Supplemental Educational Service Providers

A. Providers that meet the criteria specified by the Louisiana State Department of Education shall be included on the state-approved supplemental educational services provider list. The State Department of Education will post the list, beginning January 1, 2003. The provider list will be updated on a periodic basis, at least annually, as new providers are identified and meet the qualifications.

B. To be included on the approved list of supplemental educational service providers, applicants shall have met the following criteria as determined through the application process outlined in Subsections E and F:

1. be able to define a process for assessment that results in an individual instructional plan tied to content standards;

2. have a demonstrated level of effectiveness in increasing student academic achievement;

3. be capable of providing supplemental educational services that are of high-quality, research-based, and consistent with the instructional program of the local educational agency and the state's academic content standards;

4. provide instruction that is secular, neutral, and non-ideological;

5. be financially sound, use qualified staff, and possess the organizational capacity necessary to deliver the contracted services;

6. meet all applicable federal, state, and local health, safety, and civil rights laws; and

7. have a program accessible to students attending Title I schools in school improvement.

C. Providers may be nonprofit entities, for-profit entities, and local education agencies, including public and private schools, after-school centers, cooperative educational service agencies, institutions of higher education, and faith-based organizations.

D. Entities that are not eligible to serve as providers include public schools identified for school improvement, restructuring or corrective action; and Local Education Agencies identified for school improvement (although schools within such an LEA that are making adequate yearly progress can be providers).

E. Provider Application Requirements

1. Each application for approval to provide SES in Louisiana shall consist of the components described below:

a. a summary of proposed services that indicates:

i. the subject areas proposed (i.e., reading and/or mathematics);

ii. the grade levels to be served;

iii. the total program hours per student to be provided;

iv. the proposed locations of service delivery;

v. the minimum number of students required by the eligible applicant in order to offer SES to a district and the maximum number, if any, for each proposed district;

vi. whether the eligible applicant can provide services to students of limited English proficiency and, if so, the languages in which the eligible applicant provides instruction and the maximum number of LEP students the eligible applicant can serve in each district;

vii. whether the eligible applicant can provide services to students with disabilities and, if so, the accommodations or modifications the applicant can offer and the maximum number of students with disabilities the applicant can serve in each district;

viii. the cost of instruction per hour per student, as proposed by the provider;

ix. the ratio of instructors to children, as determined by the provider; and

x. the specific districts and schools the eligible applicant seeks to serve;

b. a rationale for the eligible applicant's SES program, including:

i. evidence of effectiveness under the following two categories:

(a) demonstrated evidence of effectiveness:

(i). evidence that the program proposed in the application has had a positive impact on students' achievement in reading and/or math for three years or more, particularly for low-income, underachieving students, as demonstrated by scores on state, district, and/or another independent, valid and reliable assessment or on a nationally recognized assessment; and

(ii). at least five but no more than 10 letters of reference from previous clients (families, districts, or teachers) offering testimonial information on the positive impact of the program proposed in the application and including contact information, starting and ending dates of service provided, and school and district names for each reference;

(b). new and emerging evidence of effectiveness:

(i). evidence that the eligible applicant has a minimum of one year's experience serving youth in the community where the eligible applicant intends to offer SES through activities such as tutoring or targeted academic intervention;

(ii). evidence that the program proposed by the applicant provides a diagnostic/prescriptive process to

have a positive impact on students' achievement in reading and/or math, particularly for low-income, underachieving students, including an explanation of data collection strategies to show future evidence of effectiveness; and

(iii) an agreement to serve no more than 200 children statewide during the first two years of SES. This limitation may be waived only through BESE approval;

c. the specific procedures to be used and frequency of reports of student progress to teachers, district staff, and parents/families (including a description of how information will be provided to parents and families in a format and language they can understand);

d. a description of the qualifications of instructional staff, including such resumes and other information on qualifications as the SDE may require;

e. proof of liability insurance in amounts deemed sufficient by the SDE;

f. evidence that the eligible applicant possesses a sound management structure;

g. evidence that the applicant has adequate financial, organizational and technical resources to administer the proposed program;

h. proof of legal authority to conduct business in Louisiana;

i. disclosure of the intended use of incentives or gratuities with the estimated cost of such items;

j. such certifications, assurances, and/or additional information as the SDE may require to fulfill its duties with respect to the administration of SES.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§107. State Educational Agency Role and Responsibilities

A. The SDE shall identify providers, maintain a list of providers, and monitor services. Specifically, the SDE shall:

1. consult with parents, teachers, LEAS, and interested members of the public to identify a large number of supplemental educational service providers;

2. provide and disseminate broadly an annual notice to potential providers the process for obtaining approval to be a provider of supplemental educational services:

a. SBESE, annually, shall provide notice of the opportunity for eligible entities to apply for the provision of SES in Louisiana. SBESE may also issue an annual notice to potential applicants of supplemental educational services on behalf of only districts that are deemed to not have an adequate number of available providers of SES;

b. each application will be read and scored by a panel of trained reviewers;

c. if an application is rejected, the applicant shall be eligible to re-apply only once during the following 12-month period;

d. if a provider is removed from the state-approved list, it shall be ineligible to re-apply during the following two-year period, unless it is a public school district that may have its eligibility restored by being removed from "improvement status";

e. an approved SES provider wishing to alter any portion of its state-approved application, including, but not limited to, proposed contact hours, curriculum changes, or program methodology, must seek and receive approval from

the SDE prior to making any change. Failure to do so may result in provider removal from the state-approved list;

3. develop and apply objective criteria for approving potential providers;

4. maintain an updated list of approved providers;

5. develop, implement, and publicly report on techniques for monitoring the quality and effectiveness of services offered by approved supplemental services providers;

6. establish a range of acceptable pricing terms and limitations for SES services. SES providers must request and receive approval of any rate changes from the SDE, so not to exceed a district's per pupil allocation under Part A of Title I of NCLB.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§109. Local Educational Agency Role and Responsibilities

A. Local educational agencies (LEAs) with schools in their second year of school improvement shall:

1. identify eligible students;

2. notify parents about the availability of services and the process for obtaining supplemental educational services for their child(ren) in an understandable and uniform format. This includes:

a. the identity of approved providers whose services are in the school district or within a reasonable proximity of the district;

3. help parents choose a provider, if such help is requested;

4. determine which students should receive services when all students cannot be served;

5. enter into an agreement with a provider selected by parents of an eligible student;

6. assist the State Educational Agency (SEA) in identifying potential providers within the LEA;

7. provide quality information to the SEA so that it can monitor the quality and effectiveness of the services offered by providers;

8. offer the opportunity for supplemental services until the school in question is no longer identified for school improvement according to the requirements of the No Child Left Behind Act. Further, the Board of Elementary and Secondary Education, for the purposes of supplemental educational services, defines "school year" as inclusive of the summer months and strongly encourages LEAs to offer services to eligible students during this timeframes;

9. protect the privacy rights of students who receive supplemental educational services.

B. Local educational agencies shall be required to use the SDE's web-based reporting system to manage student enrollment and to monitor student attendance and progress.

C. Districts shall submit quarterly programmatic and fiscal reports to LDE no later than 30 days after the end of each quarter. The report shall include:

1. information on each student served during the quarter by provider; including test, demographic, and attendance data;

2. details of any complaints received from parents or SES providers;

3. summary of any announced or unannounced monitoring visits to SES provider sites conducted during quarter;

4. any updates or revisions to information submitted to the LDE regarding SES implementation (i.e., timelines, additional schools, changes in Title I per pupil allocation, etc.); and

5. information on the quarterly fiscal expenditures of Title I funds for SES, indicating the payments made by the district to each provider for the reporting period. If a student's services are terminated during the SES reporting period, the costs should be reported in accordance with the percentage of the program completed prior to termination of services.

D. Districts failing to submit timely and complete reports shall be cited for non-compliance and requested to submit a corrective action plan. Upon receipt of such notice of non-compliance, districts shall have 30 days to submit a corrective action plan, addressing all cited issues of non-compliance.

E. Each district required to offer supplemental educational services shall maintain documentation relating to the provision of SES for state and federal monitoring and evaluation purposes. Districts should make the following information, at minimum, available for state, federal, or third-party evaluator review:

1. annual notice for SES, including how parents can access services; a listing of approved providers; brief description of provider services, qualifications, and demonstrated effectiveness of the providers;

2. description of LEA procedures for determining eligibility of students;

3. description of LEA process for prioritizing availability of services if demand is greater than available allocation;

4. copies of the district's contracts with SES providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§111. Optional LEA Responsibilities

A. Assist the State Department of Education in identifying potential providers within the school district.

B. Determine which are the lowest-achieving students who can receive services, if the demand for services exceeds available supply.

C. Provide information to the State Department of Education to assist with monitoring the quality and effectiveness of the services offered.

D. Provide Transportation to Eligible Students. Although the Board of Elementary and Secondary Education is aware that LEAs are not required by law to provide such services, it strongly encourages LEAs to provide transportation to eligible students in order to maximize their access and opportunities to improve academic achievement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§113. SES Agreement between Provider and LEA

A. Each local education agency shall enter into an agreement with the SES provider selected by parents of eligible students. The agreements shall contain, at minimum:

1. a description of the research-based program to be utilized;

2. the location and amount of time of instructional service;

3. specific achievement goals;

4. a timetable for improving achievement;

5. methods for measuring and reporting progress;

6. how parents/guardians and teacher will be regularly informed of progress;

7. procedures the LEA will use to pay the provider;

8. confidentiality of student identities;

9. conditions for the termination of the agreement, including attendance regulations and requirements, and appeal procedures.

B. SES providers may be contacted by districts to provide the approved services at the initial pricing terms approved at the state level.

C. Before providing supplemental educational services in a district, a provider must have a signed contract with the LEA.

D. The LEA may impose reasonable administrative and operational requirements through its agreements with providers that are consistent with requirements set by the SDE and that do not limit educational options for parents/guardians.

E. The LEA may terminate the services a provider is providing to an individual student if the provider fails to meet specific achievement goals within the established timetable set in the agreement between the provider and the LEA.

F. The LEA shall provide the SDE with written notification indicating its intent to terminate the services of a provider. If applicable, the provider may invoke the appeals process as outlined in §2717.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§115. SES Provider Responsibilities

A. All approved SES providers shall abide by a code of ethics consisting of the following requirements.

1. Providers shall describe services as approved in state application to consumers in terms that are easy to understand and jargon-free.

2. Providers shall submit a sample of SES program promotional materials and advertisements, (such as brochures, flyers, and posters) to the school district(s) in which they wish to serve and/or the SDE, upon request.

3. Providers shall not misrepresent to anyone the location of a provider's program or its approval status.

4. Providers shall not compensate district employees in exchange for access to facilities or to obtain student lists. School personnel may be hired for instructional purposes only.

5. Providers shall fully disclose the intended provision of economic incentives or gratuities of any kind during the state application process.

6. Providers shall not encourage or induce students or parents to switch providers once students have been enrolled into another program.

7. Providers shall not enroll students in an SES program without prior authorization from the district.

8. For students under 13, providers proposing to utilize web-based instruction must obtain parental permission before communicating with students via e-mail or the Internet as per Title XIII—Children's Online Privacy Protection Act of 1998.

B. Providers shall be required to utilize the SDE's web-based information system for student enrollment and invoicing the districts for payment.

C. An approved provider shall report annually to the SDE and each district served. The report shall include the following information: number of students served, pre- and post-test data, attendance, percentage of students meeting the academic goals set forth in Individual Learning Plans, details of any complaints received from teachers or parents; and an updated assurance that all information within the provider's approved application remains true and correct.

D. Providers shall maintain records, including data stored in information system, for a period of five years. Documentation shall be made available, upon request by the SDE, for monitoring reviews or audit purposes.

E. Providers shall cooperate with any assessments or evaluations conducted by the SDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§117. State Approval and Sanctions of SES Providers

A. This list of available SES providers shall be approved by SBESE annually.

B. The SDE shall make annual recommendations to SBESE on a provider's performance category, based on a combination of a provider's overall program compliance and student achievement gains.

C. One of the following performance categories shall be recommended for each SES provider.

Performance Category	Description
Approved	The provider has met compliance requirements and has demonstrated positive achievement effects. The provider is approved without reservation to continue services in the following year.
Satisfactory	The provider has met compliance requirements. There may be insufficient data available regarding achievement effects. It may also have only New and Emerging evidence of effectiveness, requiring a limit on total number of students served, but still meets compliance requirements.
Probation I	The provider has minor compliance violations and/or has not demonstrated positive achievement effects. The provider may also have weak or negative implementation outcomes.
Probation II	The provider has compliance violations and/or has not demonstrated positive achievement effects. The provider also may have been in Probation I status the prior year and failed to improve implementation outcomes.
Removal	The provider has serious compliance violations or the provider may have been in Probation II status last year and failed to improve implementation outcomes. The provider also may have been in Probation II status and failed to produce positive achievement effects.

D. If necessary, the provider shall, within 30 days after category designation, submit to the SDE for approval a corrective action plan detailing how the provider intends to improve the deficiencies in its program. If the provider does not undertake all actions set forth in an approved corrective

action plan during the following SES reporting period, the provider may be removed from the list of state-approved providers.

E. The SDE may also require corrective action of a provider if compliance issues are raised through the monitoring of a provider's program. Providers placed in corrective action shall, within 30 days after receiving notice, submit to the SDE a corrective action plan detailing how the provider intends to improve the deficiencies in its program. A provider may be removed from the state-approved list if it fails to meet the requirements of its corrective action plan by the end of the SES reporting period.

F. SBESE may immediately suspend a provider's services if it commits a felony or misdemeanor; has substantial non-compliance; or if an LEA or the SDE determines that a threat exists to the health or safety of students.

G. The SBESE may remove a provider from the state-approved list upon 30 days' written notice if the provider has engaged in illegal or deceptive practice, violated any assurance or aspect of its application to SDE, falsified any information on its application or other reports to SDE, or otherwise violated state or federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§119. SES Appeal Process—LEA

A. The rules and regulations contained in this Subpart are in accordance with the Louisiana Administrative Procedures Act, Revised Statutes 49:950 et seq., 7 CFR Part 226.6(k), and shall govern the implementation of appeals procedures for SES providers by local educational agencies and the SDE.

B. A provider may appeal the termination of services at the LEA level by submitting an appeal to the LEA specifying the basis upon which it believes its removal is not in accordance with applicable law.

C. The LEA shall notify the provider, in event of service termination at the district level, of the action being taken through a "Notice of Proposed Action." This notice shall contain the following information:

1. a list of specific violations of program rules and regulations alleged to have been committed by the provider;
2. the specific amount of fiscal sanction assessed against the provider, if any;
3. a statement specifying what action the provider must take to correct the violation(s), if applicable;
4. a statement of the time lines related to the proposed action;
5. a statement as the consequences for failing to timely take corrective actions or make a request for appeal;
6. a statement of the provider's right to appeal the proposed action;
7. the name, address and telephone number of the hearing officer. A third-party official must be designated by the LEA to review appeals. This information must be submitted to SDE annually for review.

D. A notice of proposed action terminating a provider's SES participation shall be sent by the LEA to the provider's executive director, the chair of the board of directors, identified responsible principals and responsible individuals. A copy of the notice shall also be sent to the SDE.

E. If the proposed termination of services is due to the provider's submission of a false or fraudulent documentation, the notice of proposed action shall also state:

1. that the effective termination or removal date shall be 10 days after the provider's receipt of the notice;

2. the provider's written request for an appeal must be received by the hearing officer within 10 days of the provider's receipt of the notice of proposed action along with written documentation opposing the proposed removal.

F. The service of a Notice of Proposed Action, Request for Appeal and Decision shall be made by official U.S. postal certified mail, return receipt requested:

1. service upon a provider's authorized representative, officer, or agent constitutes service upon that entity;

2. service by certified mail is complete upon the date of receipt. An official U.S. postal receipt from the certified mailing constitutes prima facie evidence of service. If the last day of any deadline established by these rules falls on a weekend or a state holiday, service is considered timely made if received on or before the close of business of the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§121. SES Provider Request for Appeal

A. Providers wishing to appeal proposed actions shall serve a written request for appeal upon the LEA not later than 15 calendar days after the receipt of the notice of proposed action.

B. The request for appeal shall contain the following information:

1. a listing of what specific violations set forth in the notice of proposed action are being appealed together with a short and plain statement of each contested issue of fact or law concerning each violation;

2. a statement specifying which of the following two forms of appeal a provider seeks:

a. a review of the records with the right to submit additional written information to dispute the proposed action; or

b. a hearing. Appeals shall be conducted by a fair and impartial hearing officer. The provider may be represented by legal counsel or another designated individual;

c. a statement as to the relief or remedy the provider seeks from the appeal.

C. The LEA must acknowledge receipt of the request for appeal within 10 calendar days of its receipt of the request.

D. Providers wishing to have a review of the LEA's proposed termination from SES participation must submit a written request for a review directly to the SDE at the same time.

E. In the case of a review, the LEA must render a decision to the provider within 60 days from the date of the receipt of the request for appeal by the provider. In the case of a hearing, due process procedures as developed and utilized by the LEA should ensue. Final determinations, in either case, shall be sent to the SDE within 30 days of rendering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§123. SES Appeal Process—State

A. The rules and regulations contained in this Subpart are in accordance with the Louisiana Administrative Procedures Act, Revised Statutes 49:950 et seq., 7 CFR Part 226.6(k), and shall govern the implementation of appeals procedures for SES providers by local educational agencies and the SDE.

B. A provider may appeal its removal from the state-approved list by SBESE by submitting an appeal to the SDE specifying the basis upon which it believes its removal is not in accordance with applicable law.

C. The SDE shall notify the provider, in event of removal from the state-approved list, of the action being taken through a "Notice of Proposed Action." This notice shall contain the following information:

1. a list of specific violations of program rules and regulations alleged to have been committed by the provider;

2. the specific amount of fiscal sanction assessed against the provider, if any;

3. a statement specifying what action the provider must take to correct the violation(s), if applicable;

4. a statement of the time lines related to the proposed action;

5. a statement as to the consequences for failing to timely take corrective actions or make a request for appeal;

6. a statement of the provider's right to appeal the proposed action;

7. the name, address and telephone number of the hearing officer.

D. A notice of proposed action terminating a provider's SES participation shall be sent by the SDE to the provider's executive director, the chair of the board of directors, identified responsible principals and responsible individuals.

E. If the proposed termination of services is due to the provider's submission of a false or fraudulent documentation, the notice of proposed action shall also state:

1. that the effective termination or removal date shall be 10 days after the provider's receipt of the notice;

2. the provider's written request for an appeal must be received by the hearing officer within 10 days of the provider's receipt of the notice of proposed action along with written documentation opposing the proposed removal.

F. The service of a Notice of Proposed Action, Request for Appeal and Decision shall be made by official U.S. postal certified mail, return receipt requested:

1. service upon a provider's authorized representative, officer, or agent constitutes service upon that entity;

2. service by certified mail is complete upon the date of receipt. An official U.S. postal receipt from the certified mailing constitutes prima facie evidence of service. If the last day of any deadline established by these rules falls on a weekend or a state holiday, service is considered timely made if received on or before the close of business of the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§125. SES Provider Request for Appeal

A. Providers wishing to appeal proposed actions shall serve a written request for appeal upon the SDE not later than 15 calendar days after the receipt of the notice of proposed action.

B. The request for appeal shall contain the following information:

1. a listing of what specific violations set forth in the notice of proposed action are being appealed together with a short and plain statement of each contested issue of fact or law concerning each violation;

2. a statement specifying which of the following two forms of appeal a provider seeks:

a. a review of the records with the right to submit additional written information to dispute the proposed action; or

b. a hearing. Appeals shall be conducted by a fair and impartial hearing officer. The provider may be represented by legal counsel or another designated individual;

c. a statement as to the relief or remedy the provider seeks from the appeal.

C. The SDE must acknowledge receipt of the request for appeal within 10 calendar days of its receipt of the request.

D. Providers wishing to have a review of the SDE's proposed termination from SES participation must submit a written request for a review directly to the hearing officer at the same time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§127. SES Provider Appeals on the Record; Submissions

A. Providers and responsible principals and responsible individuals opting to appeal proposed actions by a review of the record shall submit all documents and information, in written form, that they wish to have considered in the appeal to the hearing officer not later than 30 calendar days after the receipt of the notice of proposed action.

B. The SDE shall submit all documents and written information it wishes to have considered to the hearing officer not later than 30 calendar days after the institution's receipt of the notice of proposed action.

C. Any information on which SDE action was based must be available to the provider and the responsible principals and individuals for inspection from the date of the state agency's receipt of the request for appeal.

D. The hearing officer must conduct a hearing in addition to, or in lieu of, a review of the record only if the provider or the responsible principals and responsible individuals request a hearing in the written request for appeal.

E. The hearing officer must immediately notify the SDE that a provider has contested the proposed removal.

1. The SDE must immediately submit to the hearing officer a copy of the notice of proposed action terminating the provider's participation and all supporting documents.

F. If a hearing is requested in writing, the hearing officer shall schedule the hearing date to allow rendering of the decision within 60 days from the date of the receipt of the request for appeal by the state agency. The hearing officer shall notify the provider and SDE in writing of the time, date, and place of the hearing, at least 10 calendar days in advance of the date of the hearing.

1. An SDE representative must be allowed to attend the hearing to respond to the testimony of the provider and to answer questions posed by the hearing officer.

2. The notice of proposed action issued to the provider shall remain in effect until the decision is rendered in the appeal.

3. The hearing officer shall render a decision which shall include findings of fact, conclusions, and a statement as to the reasons for the decision. The decision shall be rendered within 60 days of the receipt of the request for appeal by the SDE. The decision shall be served to the provider and the SDE by the hearing officer and shall constitute the final SDE action for purposes of judicial or other review. The decision of the hearing officer can be appealed as provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., August 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 124—Supplemental Educational Services

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

There is no estimated cost (savings) to state or local governmental units. The rule is repealing the Supplemental Educational Services policies in Bulletin 111. Bulletin 124 will contain the new policies for Supplemental Educational Services, updating Federal and State policy.

The estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the

Louisiana Register is approximately \$136.00. Funds are currently budgeted for this purpose.

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

There will be no estimated effect on revenue collection of state or local governmental units.

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

There will be no costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
Management and Finance
0706#068

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28: CXV. Chapter 23)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2319, High School Graduation Requirements, §2373, Agricultural Education; §2377, General Career and Technical Education, and §2381, Health Occupations. This action is being proposed to update career and technical course offerings. In updating these courses offerings the career and technical program of studies will be more aligned with national standards.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

§2319. High School Graduation Requirements

A. - E. ...

F. High School Area of Concentration

1. - 1.a. ...

b. To complete a career area of concentration, students shall meet the minimum requirements for graduation including four elective primary credits in the area of concentration and two related elective credits, including one computer/technology course. Areas of Concentration are identified in the Career Options Reporting System with each LEA designating the Career and Technical Education Areas of Concentration offered in their school system each year. The following computer/technology courses can be used to meet this requirement.

Course	Credit
Computer/Technology Literacy	1
Computer Applications or Business Computer Applications	1
Computer Architecture	1
Computer Science I, II	1 each

Course	Credit
Computer Systems and Networking I, II	1 each
Desktop Publishing	1
Digital Graphics & Animation	1/2
Multimedia Presentations	1/2 or 1
Web Mastering or Web Design	1/2, 1
Independent Study in Technology Applications	1
Word Processing	1
Telecommunications	1/2
Introduction to Business Computer Applications	1
Technology Education Computer Applications	1
Advanced Technical Drafting	1
Computer Electronics I, II	1-3 each
Database Programming with PL/SQL	1
Java Programming	1
Database Design and Programming	1
Digital Media I, II	1-3
Computer Service Technology I & II	2-3
Networking Basics	2-3
Routers and Routing Basics	2-3
Switching Basics & Intermediate Routing	2-3
WAN Technologies	2-3
Web Design II	1

G. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R. S. 17:183.2; R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:

§2373. Agricultural Education

A. ...

B. Agriscience III and IV Laboratory, and Cooperative Agriscience Education I and II are offered only to students who are also enrolled in Agriscience III or Agriscience IV for two consecutive semester courses during the year.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 33:277 (February 2007), LR 33:

§2377. General Career and Technical Education

A. General Career and Technical Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
CTE Internship I	11-12	1
CTE Internship II	12	1
CTE Internship I	11-12	2
CTE Internship II	12	2
General Cooperative Education I	11-12	3
General Cooperative Education II	12	3
Education for Careers	9-12	1/2 -1
Teacher Cadet I	11-12	1
Teacher Cadet II	12	1
Advanced Television Broadcasting I	10-12	1-3
Advanced Television Broadcasting II	11-12	1-3
Digital Media I	10-12	1-3
Digital Media II	11-12	1-3
Oracle Internet Academy		

Course Title(s)	Recommended Grade Level	Units
Database Design and Programming	11-12	1
Java Programming	11-12	1
Database Programming with PL/SQL	11-12	1
Finance Academy		
Economics and the World of Finance	11-12	1/2
Banking and Credit	11-12	1/2
Financial Planning	11-12	1/2
Securities	11-12	1/2
Insurance	11-12	1/2
International Finance	11-12	1/2
Introduction to Financial Services	11-12	1/2 - 1
Hospitality and Tourism Academy		
Introduction to Travel and Tourism	11-12	1/2
Travel and Tourism II	11-12	1/2
Travel Geography	11-12	1/2
Systems Applications	11-12	1/2
Economics for Travel and Tourism	11-12	1/2
Information Technology Academy		
Introduction to Information Technology	11-12	1/2
Digital Networks	11-12	1/2
Advanced Web Tools	11-12	1/2
Databases	11-12	1/2
Introduction to the Internet	11-12	1/2
Logic for Programming	11-12	1/2

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 32:546 (April 2006), LR 32:1415 (August 2006) LR 33:278 (February 2007), LR 33:

§2381. Health Occupations

A. Health Occupations course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
AHEC of a Summer Career Exploration	9-12	1/2
Allied Health Services I	10-12	1-2
Allied Health Services II	10-12	1-2
Cooperative Health Occupations	11-12	3
Dental Assistant I	10-12	1-2
Dental Assistant II	11-12	2-3
Emergency Medical Technician—Basic	10-12	2
First Responder	9-12	1/2-2
Health Occupations Elective I, II	9-12	1/2-3
Health Science I	11-12	1-2
Health Science II	12	1-2
Introduction to Emergency Medical Technology	10-12	2
Introduction to Health Occupations	9-12	1
Introduction to Pharmacy Assistant	10-12	1
Medical Assistant I	10-12	1-2
Medical Assistant II	11-12	1-2
Medical Assistant III	12	1-2
Medical Terminology	9-12	1
Nurse Assistant	10-12	2-3
Pharmacy Technician	12	1-2
Sports Medicine I	10-12	1/2
Sports Medicine II	11-12	1/2
Sports Medicine III	11-12	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:279 (February 2007), LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., August 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana
Handbook for School Administrators**

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

The proposed revision will change Career and Technical course offerings. It is estimated that there will be no additional costs to state governmental units. It is unknown at this time if there are any costs to local governmental units. The LEA may choose to offer new courses to students that may require updating course offerings or other counseling brochures. LEAs choosing to offer the new courses may need to purchase items such as new textbooks, instructional materials or equipment. Each LEA will make its determination.

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

There will be no effect on revenue collections by state/local governmental units.

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

The proposed changes are being requested to bring current Career and Technical course offerings in-line with industry demands. In aligning our course offerings with national standards, it will strengthen the link between secondary and postsecondary institutions. It will assist Career and Technical students in attaining vocational skills for the workplace.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

Employers could have a larger, trained and qualified pool from which to select employees.

Beth Scioneaux
Acting Deputy Superintendent
Management and Finance
0706#011

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administration—Distance Education
(LAC 28: CXV.2395)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2395. Distance Education. Distance education provides instruction to individual learners who are separated from their teachers by space and/or time and multiple appropriate learning pathways for diverse learners. Web-based instruction, compressed and IP videoconferencing instruction, satellite-delivered, and web-supported instruction have expanded the walls of the traditional school. Emerging technologies continue to provide new distance learning opportunities that include interactive and authentic learning experiences and enhance collaboration between teacher and learner—in effect, creating virtual classrooms. Therefore, it is necessary to correlate and make recommended changes to the current set of distance learning standards.

Title 28

EDUCATION

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators**

Chapter 23. Curriculum and Instruction

§2395. Distance Education

A. An LEA choosing to implement a distance education program shall establish policy and procedures for reviewing and approving programs that meet the following standards for distance education as established by BESE.

1. Local distance education programs shall support the *State Content Standards Initiatives*.

a. Distance education programs shall support the mission of the standards-based initiatives, i.e., "to develop rigorous and challenging standards that will enable all Louisiana students to become lifelong learners and productive citizens for the 21st century."

b. Distance education courses shall incorporate the foundation skills of the *State Content Standards* (Communication, Problem Solving, Resource Access and Utilization, Linking and Generating Knowledge, and Citizenship).

2. Distance education shall comply with all policies set forth by BESE as stated in current *Bulletin 741—Louisiana Handbook for School Administrators* with the exception of §907, Secondary—Class Times and Carnegie Credit.

a. Students can earn Carnegie credit by successfully completing all course requirements for distance education courses authorized by the LEA according to the policies in this Section.

3. The receiving LEA or school and the provider shall meet the following requirements related to the development of a standards-based distance education program. A receiving LEA or school is defined as any LEA or school that has students enrolled in courses via distance education. A provider could be an LEA, school, agency or educational organization.

a. The receiving LEA shall authorize each distance education course and ensure that the rigor and breadth meets state curriculum content standards.

b. The receiving LEA shall ensure that instruction is provided by teachers certified in the course/subject in which they are teaching with training in the delivery method, including appropriate media and pedagogy.

c. The receiving LEA shall verify that college and university advanced placement and/or college dual enrollment course instructional staff not holding Louisiana state teacher credentials are validated as subject matter experts by the providing institution.

d. The receiving LEA or school shall ensure that all students enrolled in a distance learning course are provided with the necessary course materials and technical support.

e. The receiving LEA shall evaluate the effectiveness of each authorized distance education course based on course completion rates and student achievement.

f. The provider shall define minimum prerequisite technology competencies for student participation in distance education courses if such competencies are required for course access.

g. The provider shall also make available to the student an orientation to the course delivery method prior to or at the start of the course.

h. The provider shall ensure that teachers delivering instruction in distance education courses use a variety of methods to assess the mastery of the content as reflected in the *Louisiana Content Standards*.

i. The provider shall provide to the receiving LEA a complete syllabus and a list of required materials prior to course implementation.

j. The provider shall ensure that all course content complies with copyright fair use laws, including The Technology, Education, and Copyright Harmonization Act (TEACH Act).

k. Online Course providers shall ensure access to the courses' web content by using non-proprietary technologies (HTML).

l. LEAs and course providers shall make courses available to all students by complying with web accessibility guidelines and standards (W3C, Section 508, and Louisiana and institutional guidelines) to the maximum extent reasonably possible.

m. The provider shall supply course content that is designed to meet the following criteria:

i. based on current perspectives of learning theories and curriculum standards;

ii. systematic in design, clearly written and revised based on student performance and feedback;

- iii. uses appropriate presentation methods, media and pedagogy;
- iv. engages students in a variety of learning activities based on various learning styles;
- v. accommodates individual differences, including student disabilities; and
- vi. encourages student-to-teacher and student-to-student interaction.

4. The receiving LEA or school and the provider shall meet the following requirements for management and administration.

a. The receiving LEA shall award credit and grades for distanced education courses assigned by the distance education provider and instructor with no deviations.

b. The receiving LEA or school shall ensure that a facilitator who is a Louisiana licensed teacher is assigned to and is actively engaged with each student participating in distance education courses.

c. The receiving LEA or school shall ensure that the facilitator adheres to guidelines determined by the provider and the policies in this Section.

d. The receiving LEA or school shall provide adequate, timely, and appropriate technical support to students, teachers, and facilitators.

e. The receiving LEA shall ensure that the facilitators are provided ongoing staff development appropriate to the delivery method used, supporting distance education courses technically and instructionally.

f. The receiving LEA shall ensure that students have appropriate, equitable, and adequate access for course participation.

g. In the event of short- and long-term interruptions, the LEA shall establish an alternative method of instruction in cooperation with the provider.

h. The provider shall judiciously address issues relative to course load and student-teacher ratio as appropriate for the particular method of delivery, course content, and teacher competency to ensure effective student interaction and course management.

i. Students will be enrolled, added, and dropped as outlined in the LEA's Pupil Progression Plan.

j. The provider shall ensure that the teacher providing instruction is provided adequate technical support to ensure ease of use for faculty and students.

k. The provider shall furnish training and/or support in designing course content to fit the delivery methods proposed for distance education courses.

l. The teacher delivering instruction and the facilitator, through ongoing communication, shall be responsible for verifying student participation and performance.

m. The teacher delivering instruction shall provide alternate course procedures and activities for use in case of technical and other course delivery problems arise that prevent normal course delivery.

n. The teacher delivering instruction shall an atmosphere conducive to optimal learning including but not limited to monitoring online discussions and other instructional activities.

o. The teacher delivering instruction shall practice ethical and legal use of equipment and instructional resources.

p. The facilitator shall practice ethical and legal use of equipment and instructional resources.

q. The teacher delivering instruction and the facilitator through ongoing communication shall be responsible for verifying student participation and performance.

r. The facilitator shall implement alternate course procedures when technical and other course delivery problems prevent normal course delivery.

s. The facilitator shall maintain an atmosphere conducive to optimal learning, including but not limited to monitoring online discussions and other instructional activities as they occur in the classroom as directed by the teacher delivering instruction.

5. The following technical specifications are required.

a. The receiving LEA shall provide students enrolled in distance education courses technical access which meets specifications furnished by the course provider.

b. The receiving LEA shall provide instructional and communication hardware which meets specifications furnished by the course provider.

c. The receiving LEA shall fund and provide timely and appropriate technical support.

d. The provider will furnish course technical requirements sufficiently in advance so districts may make informed decisions about participation.

e. Course providers will ensure they have the appropriate technical infrastructure to support their course offerings for effective course delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:183.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1302 (June 2005), amended LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., August 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

**RULE TITLE: Bulletin 741—Louisiana Handbook for
School Administration—Distance Education**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The Louisiana Statewide Distance Learning Task Force convened in the fall of 2006 to update the State Standards for Distance Education as a result of new and emerging distance learning technologies. Prior to 1999 most Distance learning courses were offered via satellite. The standards needed to be updated to reflect the emerging technologies in online web-based instruction that have transpired since the last standards that were approved in 1999 and because satellite course offerings are being phased out.

The adoption of this policy will cost the Department of Education approximately \$136 (printing) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

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

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
Management and Finance
0706#037

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State
Certification of School Personnel
(LAC 28:CXXXI.Chapters 11, 12, 13, and 14)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, Chapters 11 through 14. This change in Bulletin 746 will incorporate Appendices B-D and the Glossary into the codified document as Chapters 11-14, as follows: Chapter 11, State and Federal Guidelines Related to No Child Left Behind Federal Legislation: Qualifications for Teacher and Paraprofessional; Chapter 12, Approved Courses to Reinstate a Lapsed Certificate; Chapter 13, Ancillary Certification; and Chapter 14, Glossary.

**Title 28
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for
State Certification of School Personnel**

**Chapter 11. State and Federal Guidelines Related to
No Child Left Behind Federal
Legislation: Qualifications for Teachers
And Paraprofessionals**

§1101. General Provisions

A. The No Child Left Behind (NCLB) Act of 2001 requires that those involved with delivering instruction of core content areas in K-12 schools be highly qualified. This chapter is divided into four sections: Board of Elementary and Secondary Education (BESE) policy regarding:

1. highly qualified status for teachers;
2. highly qualified status for paraprofessionals; and
3. continuing learning units (CLUs); and
4. federal legislation related to qualifications of teachers and paraprofessionals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§1103. Highly Qualified Policy for Teachers

A. The requirement that teachers be highly qualified applies to any public elementary, middle, or secondary school teacher. The Louisiana Department of Education (LDE) is the state agency/entity responsible for prescribing qualifications and providing for the certification of teachers under authority of R.S. 17:7.1.

B. The Louisiana Department of Education collaborated with the Board of Elementary and Secondary Education and the Board of Regents on state activities under the No Child Left Behind (NCLB) Act of 2001 related to "highly qualified teachers." All teachers hired on or after the first day of the 2002-2003 school year to work in programs supported by Title I funds and who teach core academic subjects must be highly qualified. Under NCLB, all teachers of core academic subjects must have met highly qualified status by the end of the 2005-2006 school year.

C. Statutory Requirements for Certification. To obtain initial Louisiana certification, an individual must hold at least a baccalaureate degree, have earned a minimum grade point average of a cumulative 2.50, and have demonstrated subject knowledge and teaching skills in the certification area by passing rigorous exams required in Louisiana.

D. Academic Major. In Louisiana, for the purpose of NCLB, teachers who completed an academic content major are highly qualified in that content area.

E. Advanced Certification. For the purpose of NCLB, Advanced Certification is defined as having a master's degree or higher degree in the content area. Teachers who have highly qualified status under this option must meet all applicable state laws.

F. **Advanced Credentialing.** Advanced Credentialing is defined as successful completion of a rigorous credentialing process that is based on a high objective uniform standard. The National Board of Professional Teaching Standards uses a process for certifying its candidates that meets this standard.

G. **Applicability.** The requirement that teachers be highly qualified applies to all public elementary and secondary school teachers assigned to core academic subjects. Special education teachers providing instruction in core academic areas, including those who teach students identified as academically gifted, must also meet highly qualified requirements.

H. **Core Academic Subjects.** As defined in the mandate, core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. Louisiana defined "arts as a core academic subject" to include all secondary visual and performing arts courses for which Carnegie units (high school credits) are awarded.

I. Standard Teaching Certificates

1. Louisiana issues standard teaching certificates to persons who have completed a state-approved teacher education program (traditional or alternate approach) and who earned a degree from a regionally accredited institution of higher education or an approved private provider. See Chapter 3 of this bulletin for a description of the following teaching authorizations:

- a. Level 1 Professional Certificate;
- b. Level 2 Professional Certificate;
- c. Level 3 Professional Certificate;
- d. Type C Certificate;
- e. Type B Certificate;
- f. Type A Certificate; and
- g. Out-of-State Certificate.

2. For a complete description of the Practitioner Licenses (PL1, PL2, PL3, and PL4) issued by the state to persons enrolled in a state-approved alternate teacher education program, see Chapter 3 of this bulletin. Because alternate routes meet requirements established in the federal mandate, teachers who meet admission criteria for alternate program enrollment are identified as highly qualified.

J. Nonstandard Teaching Certificates

1. See Chapter 3 of this bulletin for a description of nonstandard teaching authorizations, as follows:

- a. Temporary Authority to Teach;
- b. Out-of-Field Authorization to Teach; and
- c. Temporary Employment Permit.

2. Teachers holding a temporary certificate do not meet the NCLB "highly qualified teacher" definition because they have not demonstrated subject matter competency under NCLB legislation.

K. **Technical Assistance and Support.** The Louisiana Department of Education provides technical assistance and support to local education agencies to ensure faithful implementation of the NCLB mandate. Technical assistance and support includes but is not limited to the following activities:

1. providing each candidate on a temporary license with a "feedback sheet". A certification specialist or certification counselor who receives the request for certification evaluates the transcripts (if available) and

prepares a feedback sheet, based on the information submitted to the state by the district representative;

2. monitoring of certification folders per the NCLB consolidated monitoring process;

3. collaborating with the Board of Regents (BOR) and college/university personnel to determine ways college/university programs might assist the state by addressing areas of need (e.g., if special education programs are needed in certain geographic areas, SDE staff will collaborate with university personnel and BOR to facilitate provision of such programs);

4. prescribing the shortest route to certification, handled at the state level by certification specialists and at the local level by certification counselors;

5. using a two pronged approach to recruit candidates to pursue teaching as a career:

a. a human resources component, through the regional certification counselors;

b. a technological component, through the Teach Louisiana website at www.teachlouisiana.net.

L. **Louisiana Definition: Highly Qualified Teacher.** For purposes of NCLB Highly Qualified requirements, a "new" teacher is defined as an individual who is who is new to the teaching profession. A "not new" teacher is defined as an individual with one or more years of teaching experience earned while holding a standard teaching certificate. Teaching experience earned while holding a temporary, provisional, or emergency authorization (e.g., a Temporary Authority to Teach [TAT]) does not qualify.

1. New elementary teacher:

a. holds a standard elementary school education certificate, a special education certificate that includes elementary school grades, or a special foreign language certificate to teach a specific foreign language in grades K-8;

b. has passed the Louisiana content-specific elementary education licensing exam;

c. does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis.

2. Not new elementary teacher:

a. holds a standard elementary school education certificate, a special education certificate that includes elementary school grades, or a special foreign language certificate to teach a specific foreign language in grades K-8;

b. does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis;

c. has demonstrated content mastery by one of the following means:

i. passed the Louisiana content-specific elementary education licensing exam;

ii. holds a current National Board for Professional Teaching Standards (NBPTS) certification in early childhood, middle childhood, or in a content area basic to the elementary school (e.g., Early Language Arts, Early Mathematics) and is teaching in the NBPTS area of certification;

iii. has at least 12 semester hours of credit in each of the four core disciplines (English/language arts, including reading and writing; math; science; and social studies);

iv. by the end of the 2005-2006 school year, qualifies under the High Objective Uniform State Standard

of Evaluation (HOUSSE) Plan for Not New Elementary Teachers, as follows:

(a). a "not new" teacher who does not meet the requirements of Subparagraphs a-c above is considered highly qualified if he/she is state certified and teaching in the area of certification and if he/she completes 90 Continuing Learning Units (CLUs) by the end of the 2005-2006 school year, with the beginning of the 2001-2002 school year as the beginning date for earning CLUs;

(b). a "not new" teacher's previous work experience as a fully certified teacher may be credited as CLUs at the rate of three CLUs for each year of successful experience in the content area, with a maximum of 45 CLUs earned through work experience;

(c). the Local Education Agency (LEA) is responsible for maintaining documentation for educators seeking "highly qualified" status, as defined by NCLB, through the HOUSSE option (90 CLUs), as follows:

(i). identifying teachers in their employment using the HOUSSE option;

(ii). providing an annual update on each identified teacher's status (progress) toward earning the required 90 CLUs;

(d). see the Section at the end of this chapter entitled "Continuing Learning Units (CLUs)."

3. New middle school teacher:

a. holds a standard certificate for middle school education; middle school English/language arts, mathematics, science, or social studies; a special education area that includes middle school grades; a secondary academic content area; or a special foreign language certificate to teach a specific foreign language in grades K-8;

b. has demonstrated content mastery by one of the following means:

i. has the equivalent of an academic major in a content area appropriate to the middle school level, for every core academic subject the individual teaches;

ii. has passed the Louisiana content-specific licensing exam required for a middle school academic content area or for a secondary (grades 6-12) academic content area that is appropriate to the middle school level, for every core academic subject the individual teaches;

iii. has earned a master's degree in a pure content area (not in education) for every core academic subject the individual teaches;

c. does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis.

4. Not new middle school teacher:

a. holds a standard teaching certificate appropriate for grades 6-8 (e.g., Elementary Education 1-8, Upper Elementary Education 5-8, Middle School Education); a special education area that includes middle school grades; a secondary academic content area; or a special foreign language certificate to teach a specific language in grades K-8;

b. does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis;

c. has demonstrated content mastery by one of the following means:

i. passed the Louisiana content-specific licensing exam required for a middle school academic content area or for a secondary (grades 6-12) academic content area that is appropriate to the middle school level, for every core academic subject the individual teaches;

ii. has the equivalent of an academic major in a content area appropriate to the middle school level, for every core academic subject the individual teaches;

iii. earned a master's degree in a pure content area (not in education) for every core academic subject the individual teaches;

iv. holds a current National Board for Professional Teaching Standards (NBPTS) certification in a core content area and is teaching in the NBPTS area of certification;

v. by the end of the 2005-2006 school year, qualifies under the High Objective Uniform State Standard of Evaluation (HOUSSE) Plan for Not New Middle School Teachers:

(a). a "not new" teacher who does not meet the requirements of Subparagraphs a-c above is considered highly qualified if he/she is state certified and teaching in the area of certification and if he/she completes 90 Continuing Learning Units (CLUs) by the end of the 2005-2006 school year, with the beginning of the 2001-2002 school year as the beginning date for earning CLUs;

(b). a "not new" teacher's previous work experience as a fully certified teacher may be credited as CLUs at the rate of three CLUs for each year of successful experience in the content area, with a maximum of 45 CLUs earned through work experience;

(c). the Local Education Agency (LEA) is responsible for maintaining documentation for educators seeking "highly qualified" status, as defined by NCLB, through the HOUSSE option (90 CLUs):

(i). identifying teachers in their employment using the HOUSSE option; and

(ii). providing an annual update on each identified teacher's status (progress) toward earning the required 90 CLUs;

(d). see the Section at the end of this chapter entitled "Continuing Learning Units (CLUs)."

5. New secondary teacher:

a. holds a standard certificate for every core academic subject the individual teaches;

b. has demonstrated content mastery by one of the following means:

i. has the equivalent of an academic major for every core academic subject the individual teaches;

ii. has passed the Louisiana content-specific licensing exam for every core academic subject the individual teaches;

iii. has earned a master's degree in a pure content area (not in education) for every core academic subject the individual teaches;

c. does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis.

6. Not new secondary teacher:

a. holds a standard certificate for every core academic subject the individual teaches;

b. does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis;

c. has demonstrated content mastery by one of the following means:

i. passed the Louisiana content-specific licensing exam for every core academic subject the individual teaches;

ii. has the equivalent of an academic major for every core academic subject the individual teaches;

iii. earned a master's degree in a pure content area (not in education) for every core academic subject the individual teaches;

iv. holds a current National Board for Professional Teaching Standards (NBPTS) certification in a core content area and is teaching in the NBPTS area of certification;

v. by the end of the 2005-2006 school year, qualifies under the High Objective Uniform State Standard of Evaluation (HOUSSE) Plan for Not New Secondary Teachers:

(a). a "not new" teacher who does not meet the requirements of Subparagraphs a-c above is considered highly qualified if he/she is state certified and teaching in the area of certification and if he/she completes 90 Continuing Learning Units (CLUs) by the end of the 2005-2006 school year, with the beginning of the 2001-2002 school year as the beginning date for earning CLUs;

(b). a "not new" teacher's previous work experience as a fully certified teacher may be credited as CLUs at the rate of three CLUs for each year of successful experience in the content area, with a maximum of 45 CLUs earned through work experience;

(c). the Local Education Agency (LEA) is responsible for maintaining documentation for educators seeking "highly qualified" status, as defined by NCLB, through the HOUSSE option (90 CLUs):

(i). identifying teachers in their employment using the HOUSSE option; and

(ii). providing an annual update on each identified teacher's status (progress) toward earning the required 90 CLUs;

(d). see the Section at the end of this chapter entitled "Continuing Learning Units (CLUs)."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§1105. Highly Qualified Policy for Paraprofessionals

A. The NCLB legislation signed into law by President Bush on January 8, 2002, was established to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and, at minimum, reach proficiency on challenging state academic achievement standards and assessments. Title I, as amended by NCLB, has new requirements for paraprofessionals.

B. Definition of Paraprofessional

1. For the purposes of Title I, Part A, a *paraprofessional* is an employee who provides instructional support in a program supported with Title I, Part A funds. This includes paraprofessionals working in any of the following capacities:

a. providing one-on-one tutoring if such tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher;

b. assisting with classroom management, such as organizing instructional and other materials;

c. providing instructional assistance in a computer laboratory;

d. conducting parental involvement activities;

e. providing support in a library or media enter;

f. acting as a translator;

g. providing instructional support services under the direct supervision of a teacher [Title I, Section 1119(g)(2)].

2. Individuals functioning as interpreters/transliterators, who are providing communication assistance only (not instructional support), are not considered paraprofessionals under Title I if they possess one of the following Educational Interpreter certificates:

a. Ancillary Provisional Certificate;

b. Ancillary Grandfather Certificate; or

c. Qualified Ancillary Certificate.

3. Individuals who work in food services, cafeteria or playground supervision, personal care services, non-instructional computer assistance, and similar positions are not considered paraprofessionals under Title I.

C. Requirements for Title I Paraprofessionals. All Title I paraprofessionals hired on or before January 8, 2002, and working in a program supported with Title I funds must have met the following requirements by January 8, 2006. All Title I paraprofessionals hired after January 8, 2002, must meet the following requirements to be hired:

1. possess a secondary school diploma or its recognized equivalent (e.g., Graduate Equivalency Examination—GED). This includes paraprofessionals who serve as translators or who conduct parental involvement activities;

2. satisfy one of the following:

a. pass a state approved assessment for paraprofessionals;

b. obtain an Associate (or higher) Degree at a higher education institution;

c. complete two years of full-time study at an institution of higher education.

D. Louisiana Pathways for Paraprofessionals to Meet Federal Requirements. The U.S. Department of Education specifies that paraprofessionals should be able to demonstrate knowledge of and the ability to assist in instruction in the areas of reading, writing, and math, or in "school readiness." Paraprofessionals are expected to have a working knowledge of these academic areas. Louisiana offers all paraprofessionals three ways to meet federal requirements.

1. State Test. A paraprofessional who passes the Educational Testing Service (ETS) Para-Pro Assessment will meet state and federal requirements to be classified as a "highly qualified paraprofessional." A paraprofessional who is "not new to the profession" who passes the ACT Work Keys assessment and who has successful observations will meet state and federal requirements to be classified as a "highly qualified paraprofessional."

2. Two Years of Full-Time Study (48 Semester Credit Hours). State, district, and post-secondary education

personnel collaborated in identifying course requirements for paraprofessionals (within a state approved institution of higher education) that would assist paraprofessionals when instructing students in the areas of reading, writing, math, and school readiness.

3. Associate Degree. State, district, and post-secondary education personnel collaborated in identifying course requirements for paraprofessionals (within a state-approved institution of higher education) that would assist paraprofessionals when instructing students in the areas of reading, writing, math, and school readiness.

E. State-Approved Institutions of Higher Education. State-approved higher education institutions may offer coursework to paraprofessionals. To be approved by the state, institutions must be accredited by a nationally recognized accrediting entity or granted pre-accreditation status. Newly developed public institutions that are formally seeking accreditation through the Southern Association for Colleges and Schools may obtain pre-accreditation status from the state. A list of approved institutions is available from the Department of Education upon request.

F. Louisiana Definition: Highly Qualified Paraprofessional

1. New to the Profession—a paraprofessional must satisfy one of the following:

- a. passed the ETS Para-Pro Assessment;
- b. has two years of full-time study (48 semester credit hours) from the recommended list of state-approved institutions of higher education or from a regionally accredited institution(s) of higher education. A total of 15 hours of general education course requirements include English Composition (3), English/Reading (6), and Mathematics (6). For the remaining 33 hours of coursework, acceptance of credit for a course shown on a transcript from an approved higher education institution is left to school district discretion in addressing the needs of the specific job;
- c. has Associate of Arts or Associate of Applied Science degree from a state-approved or regionally accredited institution of higher education.

2. Not New to the Profession—a paraprofessional must satisfy one of the following:

- a. passed the ETS Para-Pro Assessment;
- b. has two years of full-time study (48 semester credit hours) from the recommended list of state-approved institutions of higher education or from a regionally accredited institution of higher education. A total of 15 hours of general education course requirements include English Composition (3), English/Reading (6), and Mathematics (6). For the remaining 33 hours of coursework, acceptance of credit for a course shown on a transcript from an approved higher education institution is left to school district discretion in addressing the needs of the specific job;
- c. has Associate of Arts or Associate of Applied Science degree from a state-approved or regionally accredited institution of higher education;
- d. has successfully completed the ACT, Inc., Work Keys skills assessments and on-the-job observation

G. Curriculum-based Pathways for Paraprofessionals. General Education and Teacher Preparation coursework must address the K-12 state content standards, Louisiana Components of Effective Teaching, National Council for the Accreditation of Teacher Education (NCATE) standards, and

Praxis expectations. In addition to the ETS ParaPro Assessment, the State specified three curriculum-based pathways for paraprofessionals to meet federal requirements, as follows.

1. Total of 48 Credit Hours
 - a. General Education Courses—15 semester hours:
 - i. English Composition (3 hours);
 - ii. English/reading (6 hours);
 - iii. Mathematics (6 hours).
 - b. Paraprofessional Courses—for the remaining 33 semester hours, acceptance of credit for a course shown on a transcript from an approved institution of higher education is left to school district discretion in addressing needs of a specific job.
 - i. Guidelines for prescriptive plan requiring additional coursework—school districts should consider at least three hours of reading and at least 12 hours from a list of available paraprofessional courses, as follows:
 - (a). Strategies for Teaching and Learning;
 - (b). Assessment of Learning;
 - (c). Classroom and Behavior Management;
 - (d). Addressing the Needs of Exceptional Children.
 - ii. Discipline-specific electives may include as many as 12 hours of developmental (remedial) courses.
2. Associate of Applied Science Degree (60+ credit hours)
 - a. General Education Courses—15 semester hours:
 - i. English Composition (3 hours);
 - ii. Humanities (3 hours);
 - iii. Math—Algebra (3 hours);
 - iv. Natural Sciences (3 hours);
 - v. Social and Behavioral Science (3 hours).
 - b. Teacher Preparation Courses—Child/Adolescent Development (3 hours)
 - c. Paraprofessional Courses—30 semester hours:
 - i. Introduction to Paraprofessional Education (3);
 - ii. Applied Literacy Development (3);
 - iii. Strategies for Teaching and Learning (3);
 - iv. Applied Assessment of Learning (3);
 - v. Applied Classroom Behavior Management (3);
 - vi. Addressing the Needs of Exceptional Children (3);
 - vii. Application of Computer Technology (3);
 - viii. Family, School, and Community Relations (3);
 - ix. Health and Safety in Schools (3);
 - x. Paraprofessional Practicum—Teaching, Learning, and Record Keeping (3).
3. Associate of Arts Degree (60+ credit hours)
 - a. General Education Courses—54 semester hours:
 - i. English Composition (6 hours);
 - ii. Humanities: English Literature (6 hours);
 - iii. Math—Algebra, etc. (12 hours);
 - iv. Natural Sciences (15 hours);
 - v. Social and Behavioral Science (12 hours);
 - vi. Fine Arts (3 hours).
 - b. Teacher Preparation Courses—9 hours. Select three of the following:
 - i. Child/Adolescent Development (3 hours);
 - ii. Educational Psychology (3 hours);
 - iii. Multicultural/Exceptional Education (3 hours):
 - (a). Educational Technology (3 hours);

(b). Children's Literature (3 hours).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§1107. Continuing Learning Units (CLUs)

A. A Continuing Learning Unit (CLU) is a professional development activity that builds capacity for effective, research-based, content-focused teaching and learning that positively impacts student achievement. As a unit of measure, it is used to quantify an educator's participation in a district or system-approved, content-focused professional development activity aligned with the educator's individual professional growth plan.

B. Educators may earn one CLU for each clock hour of active engagement in a district or system-approved high quality professional development activity. Each educator is responsible for maintaining required documentation and for reporting earned CLUs in a manner prescribed by the district or system. Earned CLUs will transfer across Local Education Agencies (LEAs).

C. Under the No Child Left Behind (NCLB) Act of 2001, Louisiana developed a High Objective Uniform State Standard of Evaluation (HOUSSE) option for teachers to gain highly qualified status. The HOUSSE option provides that a teacher "not new" to the state's school systems can be considered highly qualified if he/she completes 90 CLUs by the end of School Year 2005-2006.

D. The Louisiana Components of Effective Professional Development (see Appendix E) is used to define the 90 CLUs. The beginning date for earning CLUs is the onset of the 2001-2002 school year. The "not new" teacher's previous work experience as a fully certified teacher may be credited as CLUs at the rate of three CLUs for each year of successful experience in the content area, with a maximum of 45 CLUs earned through work experience.

E. For educators seeking "highly qualified" status through HOUSSE (90 CLUs), the LEA maintains documentation by:

1. identifying those teachers in their employment using the HOUSSE option; and
2. providing an annual update on each identified teacher's status (progress) toward earning the required 90 CLUs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§1109. Federal Legislation Related to Qualifications of Teachers and Paraprofessionals

A. Title 17 of the Louisiana Statutes also contains a portion of Title 20: Education, known as the federal "No Child Left Behind" Act. Specifically, see Paragraph 6319 of Chapter 70 pertains to qualifications for teachers and paraprofessionals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

Chapter 12. Approved Courses to Reinstate Lapsed Certificates

§1201. Period of Validity

A. The period of validity for a Louisiana teaching certificate is subject to the provision that the certificate holder does not allow a period of five or more consecutive calendar years of disuse to accrue, and/or the certificate is not revoked by the State Board of Elementary and Secondary Education acting in accordance with law. When used relative to certificate validity, the term "disuse" is defined as a period of five consecutive calendar years in which a certificated individual is not a teacher of record for at least one semester, or 90 consecutive days. If such a period of disuse occurs, the certificate has lapsed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§1203. Reinstatement of a Lapsed Certificate

A. Reinstatement of a lapsed certificate is made only on evidence that the holder has earned six semester hours of credit from a regionally accredited institution of higher education in approved courses. The credit must be earned within the five year period immediately preceding reinstatement of the certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§1205. Certificate Reinstatement Coursework

A. Chapter 11 contains a listing of types of coursework that have been approved for reinstating a lapsed certificate. The following notes pertain to certificate reinstatement coursework across all areas of certification.

1. Teachers with multiple certification areas may complete coursework specific to any of their certification areas.
2. Coursework must be reflected on a transcript from a regionally accredited institution of higher education.
3. Course credit must be earned within the five year period immediately preceding reinstatement of the certificate.
4. Coursework cannot be a repeat of prior coursework shown on a transcript, unless the student failed or earned a "D" in the course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§1207. Responsibility of the Employing Authority

A. When a city or parish employing authority desires to hire a teacher whose certificate has lapsed or expired, it is the responsibility of the employing authority to notify the Louisiana Department of Education, Division of Teacher Certification and Higher Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§1209. Early Childhood (PK, K, PK-3)

A. Types of Approved Coursework to Reinstate an Early Childhood (PK, K, PK-3) or an Elementary Grades (1-4, 1-6, 1-8) certificate:

1. diagnostic and prescriptive reading;
2. reading in the content area;
3. other content in reading;
4. early numeracy concepts of mathematics;
5. other content in mathematics;
6. content in english/language arts;
7. content in science;
8. content in social studies;
9. classroom and/or behavior management;
10. technology in the classroom;
11. teaching in an inclusive setting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§1211. Middle Grades (4-8, 5-8)

A. Types of Approved Coursework to Reinstate a Middle Grades (4-8, 5-8) certificate:

1. diagnostic and prescriptive reading;
2. reading in the content area;
3. other content in reading;
4. early numeracy concepts of mathematics;
5. other content in mathematics;
6. content in english/language arts;
7. content in science;
8. content in social studies;
9. content specific to subject area of certification;
10. classroom and/or behavior management;
11. technology in the classroom;
12. teaching in an inclusive setting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§1213. Secondary (6-12, 7-12)

A. Types of Approved Coursework to Reinstate a Secondary (6-12, 7-12) certificate:

1. diagnostic and prescriptive reading;
2. reading in the content area;
3. other content in reading;
4. content specific to subject area of certification;
5. classroom and/or behavior management;
6. technology in the classroom;
7. teaching in an inclusive setting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§1215. Special Education

A. Types of Approved Coursework to Reinstate a Special Education certificate:

1. diagnostic and prescriptive reading;
2. reading in the content area;
3. other content in reading;
4. early numeracy concepts of mathematics;

5. other content in mathematics;
6. content in english/language arts;
7. content in science;
8. content in social studies;
9. content specific to subject area of certification;
10. classroom and/or behavior management;
11. technology in the classroom;
12. teaching in an inclusive setting.
13. vocational and transition services for students

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§1217. All Level (K-12)

A. Types of approved coursework to reinstate an all-level (K-12) certificate (art, dance, foreign language, health and physical education, or music):

1. content in reading;
2. content specific to subject area of certification;
3. classroom and/or behavior management;
4. technology in the classroom;
5. teaching in an inclusive setting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§1219. Ancillary Certificate

A. Types of approved coursework to reinstate an ancillary certificate:

1. content specific to subject area of certification;
2. coursework included in a prescriptive degree program in which certificate holder is enrolled;
3. classroom and/or behavior management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

Chapter 13. Ancillary Certification

§1301. General Provisions

A. Ancillary certificates are issued to individuals who provide teaching, support, administrative, or supervisory services to children in Louisiana K-12 schools. Recipients of these certificates are qualified persons who are not certified teachers in the particular area of ancillary certification. The holder of an ancillary certificate is authorized to perform only those services stated specifically on the certificate.

B. Chapter 3 of this bulletin sets forth the *teaching* areas for which ancillary certificates are issued. Chapter 4 of this bulletin concerns ancillary certificates issued for those who provide *support services* in K-12 schools. Chapter 7 of this bulletin specifies ancillary certificates issued for those who provide *administrative and supervisory services* in K-12 schools. This appendix provides a brief outline of all ancillary areas for which certificates are issued in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§1303. Ancillary Teaching Certificates

A. There are three types of ancillary *teaching* certificates.

1. Artist or Talented Certificate—issued to an applicant with an advanced degree in an artistic or talented field, or who has produced evidence of creative accomplishments over an extended period of time. The certificate allows the holder to provide artistic and/or creative services in a regular classroom to children at any age level.

2. Nonpublic Montessori Teacher Certificate—issued to a qualified person who teaches in a nonpublic school setting using the Montessori method.

3. Family and Consumer Sciences (Occupational Programs)—issued to a qualified person authorizing him/her to teach in the family and consumer sciences areas of child care, clothing service, food service, housing and interior design, and institutional home management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§1305. Ancillary School Service Certificates

A. An ancillary certificate can be issued in the following school service areas.

1. Child Nutrition Program Supervisor—issued to an individual with a master's degree from a regionally accredited institution of higher education in home economics, institutional management, nutrition, dietetics, business administration, food technology, or public health nutrition.

2. Educational Interpreter and/or Transliterator—issued to an individual who facilitates communication within an instructional environment, via an enhanced visual and/or tactile mode, between and among deaf/hard of hearing individuals and hearing individuals in situations in which those individuals are unable to communicate with one another using a speech and hearing mode.

3. School Librarian—issued to individuals with a master's degree in library science from a regionally accredited institution.

4. School Nurse—issued to individuals who have current Louisiana licensure as a registered professional nurse.

5. Social Worker—issued to individuals with master's degrees in social work or social welfare science from a regionally accredited institution.

6. Special Education Examiners—state statute requires that each school district have assessment teams for the purpose of identifying and evaluating the individual needs of each child with exceptionalities. In addition to an Educational Diagnostician (which is not an ancillary certification area), the teams may include any number of the specialists outlined below:

- a. audiologist;
- b. school psychologist;
- c. supervisor of school psychological services;
- d. speech pathology assistant;
- e. speech pathologist;
- f. speech therapist/American Speech and Hearing Association (ASHA).

7. School therapists:

- a. school art therapist;
- b. dance therapist;
- c. music therapist;
- d. occupational therapist;
- e. physical therapist;
- f. recreational therapist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

Chapter 14. Glossary

A. Terms

Alternate Teacher Preparation Program—a pathway designed for candidates with a minimum of a baccalaureate degree earned at a regionally accredited institution. An alternate program combines professional knowledge with field experiences, including a one year supervised internship in a school setting. For admission to an alternate program, applicants must demonstrate content mastery.

Ancillary Certificate—a type of Louisiana certificate that allows a qualified person who is not a certified teacher to provide services in a school setting.

Baccalaureate—a term used to denote an undergraduate degree or program (e.g., Bachelor of Arts, Bachelor of Science).

Certification—a licensing process whereby qualified professionals become legally authorized to teach or to perform designated duties in the schools under the jurisdiction of the State Board of Elementary and Secondary Education (BESE).

Continuing Learning Unit (CLU)—a professional development activity that builds capacity for effective, research-based, content-focused teaching and learning that positively impacts student achievement. As a unit of measure, the CLU is used to quantify an educator's participation in a system-approved content-focused professional development activity aligned with the educator's individual professional growth plan.

Core Subject Areas (per No Child Left Behind federal legislation)—English, reading, language arts; mathematics; science; foreign languages; civics and government; economics; arts; history; and geography.

Endorsement—a permanent certification authorization added to an existing teaching certificate.

Graduate—a term used to denote a degree, coursework, or program beyond the baccalaureate degree level (e.g., Masters of Education, Masters of Arts in Teaching).

Industry Based Certification—a certificate that provides evidence that an individual has successfully demonstrated skill competencies in a specific set of work related tasks, single occupational area, or a cluster of related occupational areas (e.g., Certified Landscape Technician, ASE Certification, Licensed Cosmetologist).

Non-Standard Certificate—a one year temporary authorization that can be issued three times to an applicant who is pursuing full credentialing as a teacher. To have this certificate re-issued for Year 2 and for Year 3, an applicant must meet specified renewal requirements.

Post-Baccalaureate (or old) Alternate Certification Program—a program offered prior to July 1, 2002, that provided opportunities for individuals with a minimum of a baccalaureate degree to become certified public school

teachers. Applicants seeking certification under this program submitted an official transcript for evaluation to a Louisiana college or university that had an approved teacher education program.

Paraprofessional—an employee who provides instructional support in a program supported with Title I, Part A funds.

Regionally Accredited—a term used to denote the status of public recognition that a regionally recognized accrediting agency grants to an educational institution or program that meets the agency's standards and requirements.

Regularly Employed—a term used to denote an individual who is a full-time or part-time employee of a school system, and who is not hired on a day-to-day basis.

Standard Certificate—a credential issued by the state to an individual who has met all requirements for full certification as a teacher.

Teacher—an employee of a city or parish school board or of a BESE special school who holds a teaching certificate and whose legal employment requires certification under the regulations of BESE.

Teacher Education Program Completer—an individual who satisfies all requirements of a traditional teacher preparation undergraduate degree program or of an approved alternate teacher preparation program.

Teaching Certificate—a license, permit, or certificate issued by the Louisiana Department of Education to an individual who has met all state requirements for certification as a teacher.

Temporary License—a teaching authorization held for a short period that is not a standard certificate (see "non-standard certificate" above).

Traditional Teacher Preparation Program—a Bachelor of Arts or Bachelor of Science degree program that includes general education courses, certification focus area(s), professional education courses, field experiences, and student teaching in a school setting.

Undergraduate—a term used to denote a degree, coursework, or program at the baccalaureate degree level (e.g., Bachelor of Arts, Bachelor of Sciences).

B. Acronyms

BESE—Board of Elementary and Secondary Education

CLU—Continuing Learning Unit (professional development)

CTTIE—Career and Technical Trade and Industrial Education

HOUSSE (*per the federal No Child Left Behind Act of 2001*)—High Objective Uniform State Standard of Evaluation (for highly qualified status of teachers)

INTASC—Interstate New Teacher Assessment and Support Consortium

LCET—Louisiana Components of Effective Teaching

LaTAAP—Louisiana Teacher Assistance and Assessment Program

NASDTEC—National Association of State Directors of Teacher Education and Certification

NCATE—National Council for Accreditation of Teacher Education

NCLB—No Child Left Behind Act of 2001 (federal law)

OFAT—Out-of-Field Authority to Teach, a non-standard license

TAT—Temporary Authorization to Teach, a non-standard license

TEP—Temporary Employment Permit, a non-standard license

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., August 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 746—Louisiana Standards for State Certification of School Personnel**

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

This change in Bulletin 746 will incorporate Appendices B-D and the Glossary as Chapters 11-14, as follows: Chapter 11—State and Federal Guidelines Related to No Child Left Behind Federal Legislation: Qualifications for Teacher and Paraprofessional; Chapter 12—Approved Courses to Reinstate a Lapsed Certificate; Chapter 13—Ancillary Certification; and Chapter 14—Glossary. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
Management and Finance
0706#007

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1566—Pupil Progression Policies and Procedures
(LAC 28:XXXIX.101, 103, 501-505, 707,
901, 905-911, 1101, 1301, and 1501)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1566—Pupil Progression Policies and Procedures* (LAC Part Number XXXIX). The revisions include changing the title of Bulletin 1566 from *Guidelines for Pupil Progression* to *Pupil Progression Policies and Procedures*, deleting the number "21" from references to LEAP and GEE, and making some technical edits required by the department's proofreader.

Title 28

EDUCATION

**Part XXXIX. Bulletin 1566—Pupil
Progression Policies and Procedures**

Chapter 1. Purpose

§101. Foreword

A. This publication represents a forward step in the implementation of a vital component of R.S. 17:24.4. These Policies and Procedures represent a cooperative effort of offices in the Louisiana Department of Education (LDE), and educators from across the State.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2169 (November 1999), amended LR 33:

§103. Preface

A. - D. ...

E. The Louisiana State Legislature in Regular Session during the summer of 1997 amended and reenacted R.S. 17:24.4(F) and (G)(1), relative to the Louisiana Competency-Based Education Program, to require proficiency on certain tests as determined by the State Board of Elementary and Secondary Education (SBESE) for student promotion and to provide guidance relative to the content of Pupil Progression Plans.

F. The amended sections relate state content standards adopted for mathematics, English language arts, science, and social studies, to the Louisiana Educational Assessment Program (LEAP), and to the comprehensive Pupil Progression Plans of each of the local educational agencies.

G. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2169 (November 1999), amended LR 33:

**Chapter 5. Placement Policies; State Requirements
§501. State Requirements**

A. Each local Pupil Progression Plan shall contain written policies relative to regular placement and alternatives to regular placement. Such policies must conform to the requirements of these policies and procedures.

B. Based upon local school board policy pursuant to these policies and procedures, each teacher shall, on an individualized basis, determine promotion or placement of each student [Act 750; R.S. 17:24.4(G)]. Local school board policies relative to pupil progression will apply to students placed in regular education programs as well as to exceptional students and to students placed in alternative programs. Placement decisions for exceptional students must be made in accordance with the least restrictive environment requirements of state and federal laws (Act 754 Regulations, Subsection 443).

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 33:

§503. Regular Placement¹

A. - A.1.b. ...

i. Each plan shall include the statement that, in addition to completing a minimum of 23 Carnegie units of credit as presented by SBESE, the student shall be required to pass the required components of the Graduation Exit Examination in order to receive a high school diploma.

ii.(a). No fourth or eighth grade student shall be promoted until he or she has scored at or above the "Basic" achievement level on the English Language Arts or Mathematics components of the LEAP and at the "Approaching Basic" achievement level on the other (hereafter referred to as the "Basic/Approaching Basic" combination).

(b). Exceptional students participating in LEAP must be provided with accommodations as noted in the students' IEPs.

c. - c.i. ...

ii. Retention Policies (Fourth Grade). The decision to retain a student in the fourth grade more than once as a result of failure to score at or above the "Basic/Approaching Basis" combination on the English Language Arts and Mathematics components of LEAP shall be made by the LEA in accordance with the local Pupil Progression Plan which shall include the following.

(a). - (b). ...

(c). Students retained in the fourth grade shall retake all four components of the LEAP.

(d). For promotional purposes, a student must score at or above the "Basic/Approaching Basic" combination on the English Language Arts and Mathematics components of the LEAP only one time.

iii. ...

(a). The student's highest score in English Language Arts and/or Mathematics on either the spring or

summer LEAP must fall within 20 scaled score points of the cutoff score for "Basic."

(b). ...

(c). The student must have attended the LEAP summer remediation program.

(d). The student must have taken the LEAP retest given after the LEAP summer remediation program has been concluded.

(e). - (f). ...

iv. Retention Policies (Eighth Grade). After the summer retest, a school system, through its superintendent, may consider a waiver for an eighth grade student who has scored at the "Approaching Basic" level on both the English Language Arts and Mathematics components of LEAP. The LEA may grant the waiver in accordance with the local Pupil Progression Plan provided the following criteria are met.

(a). The student may be promoted to the ninth grade, provided that he or she has scored at the "Approaching Basic" level on both the English Language Arts and Mathematics components of LEAP, has attended the LEAP summer remediation program offered by the district, and has taken the summer retest administered at the conclusion of the summer program.

iv.(b). - v.(a). ...

(b). promoted to the ninth grade, provided that the student has scored at the "Approaching Basic" level on either the English Language Arts or Mathematics component of LEAP, has attended the LEAP summer remediation program offered by the District in, at a minimum, the "Unsatisfactory" subject, and has taken the summer retest administered at the conclusion of the summer program. If promoted with an "Unsatisfactory" on the English Language Arts or Mathematics component of LEAP, the student must enroll in and pass a high school remedial course in the "Unsatisfactory" subject (English language arts or mathematics) before enrolling in or earning Carnegie credit for English or mathematics; or

(c). ...

vi. LEAP Testing

(a). Students repeating the eighth grade will retake all four components of LEAP.

(b). ...

vii. Students with disabilities eligible under the Individuals with Disabilities Education Act (IDEA) participating in LEAP Alternate Assessment. Students with disabilities who participate in the LEAP Alternate Assessment, Level 1 (LAA1), shall have promotion decisions determined by the SBLC.

vii.(a) - viii. ...

ix. Waiver for Extenuating Circumstances. A school system through its superintendent may grant a waiver on behalf of individual students who are unable to participate in LEAP testing or unable to attend LEAP summer remediation because of one or more of the following extenuating circumstances as verified through appropriate documentation: a physical illness or injury that is acute or catastrophic in nature, a chronic physical condition that is in an acute phase or court ordered custody issues. (Refer to Appendix B, Chapter 13.)

x. State Granted Exceptions. A local school superintendent, a parent or guardian, or the State Department of Education may initiate a request for a state-granted waiver

from the State Superintendent of Education on behalf of individual students who are not eligible for promotion because of LEA error or other unique situations not covered under extenuating circumstances. The Department of Education will provide information to the State Board of Elementary and Secondary Education detailing state-granted waivers. (Refer to Appendix B, Chapter 13.)

xi. In order to move students toward grade level performance, LEAs shall design and implement additional instructional strategies for those fourth and eighth grade students being retained. The purpose of the additional instructional strategies is to move the students to grade-level proficiency by providing the following: focused instruction in the subject area(s) on which they scored at the "Approaching Basic" and/or "Unsatisfactory" level on LEAP, and ongoing instruction in the core subject areas using curricula based on State-level content standards and the Grade Level Expectations. LEAs are also encouraged to design and implement additional instructional strategies for students in grades 3, 4, 7, and 8 who have been determined to be at risk of failing to achieve the "Basic/Approaching Basic" combination on LEAP.

xii. Summer remediation programs and end-of-summer retests must be offered by school systems at no cost to students who did not take the Spring LEAP tests or who failed to achieve the required level on LEAP.

(a). Students with disabilities who participate in LEAP Alternate Assessment, Level 1 (LAA1), are not eligible to attend LEAP summer remediation programs.

xii.(b). - xiv.(b). ...

B. Retention—Grades K-12

1. Retention of a student shall be based upon the student's failure to meet the criteria established by local boards for promotion and other criteria contained in these policies and procedures.

C. - D.1. ...

a. Effective with the 2000-2001 school year, students in grades 5 and 9 transferring to the public school system from any in-state nonpublic school (state approved and unapproved), any home schooling program or Louisiana resident transferring from any out-of-state school shall be required to pass the English language arts and Mathematics portions of the state-developed LEAP placement test.

¹Schools can only make recommendations to parents regarding student enrollment in kindergarten, since kindergarten is not mandatory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 2000), amended LR 26:1433 (July 2000), LR 26:1576 (August 2000), LR 27:188 (February 2001), LR 27:1006 (July 2001), LR 27:1682 (October 2001), LR 29:123 (February 2003), LR 30:407 (March 2004), LR 31:1974 (August 2005), LR 31:3103 (December 2005), LR 33:

§505. Progression—Students Participating in LEAP Alternate Assessment Level 1 (LAA1) or LEAP Alternate Assessment Level 2 (LAA2)

A. Students with disabilities who participate in the LEAP Alternate Assessments (LAA1 or LAA2) shall have promotion decisions determined by the School Building Level Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 2000), amended LR 26:1433 (July 2000), LR 27:189 (February 2001), LR 27:1683 (October 2001), LR 29:123 (February 2003), LR 30:409 (March 2004), LR 33:

Chapter 7. Placement Policies; Local Options

§707. Other Local Option Factors

A. In conjunction with the enumerated legislated policies and LDE directives, local school systems may include evaluative criteria in their local Pupil Progression Plans. If other criteria are used, the Pupil Progression Plan must so specify.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999), amended LR 33:

Chapter 9. Regulations for the Implementation of Remedial Education Programs Related to the LEAP/CRT Program

§901. Preface

A. The regulations for remedial education programs approved by the State Board of Elementary and Secondary Education are an addendum to *Bulletin 1566—Pupil Progression Policies and Procedures*, Board Policy 4.01.90. The regulations provide for the development of local remedial education programs by local education agencies.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999), amended LR 33:

§905. Definition and Purpose

A. - B. ...

1. The purpose of the Louisiana Remedial Education Act is to provide supplemental funds for the delivery of supplemental remedial instruction adapted for those eligible students in the elementary and secondary schools of this state as set forth in the city and parish school board Pupil Progression Plans. A program of remedial education shall be put into place by local parish and city school systems following regulations adopted by the department and approved by the state board pursuant to R.S. 17:24.4. All eligible students shall be provided with appropriate remedial instruction (R.S. 17:395 A).

2. ...

3. Beginning in the summer of 2006, remediation in the form of summer school shall be provided to both fourth and eighth grade students who score at the "Approaching Basic" or "Unsatisfactory" level on the LEAP English Language Arts and/or Mathematics tests. Summer remediation shall consist of a minimum of 50 hours of instruction per subject.

4. Remediation shall be provided to students who score at the "Unsatisfactory" level on the LEAP Science and Social Studies tests.

5. Remediation is recommended for fourth and eighth grade students who score at the "Approaching Basic" level on the LEAP Science or Social Studies tests.

6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999), amended LR 28:1189 (June 2002), LR 30:409 (March 2004), LR 31:1975 (August 2005), LR 33:

§907. Responsibilities of the State Board of Elementary and Secondary Education

A. ...

1. approve as a part of the *Pupil Progression Policies and Procedures* (Bulletin 1566) the regulations for development of local remedial education programs designed to meet student deficiencies as identified through the Louisiana Educational Assessment Program in English language arts, written composition, mathematics, social studies and science [R.S. 17:399(A)] for the Graduation Exit Examination and English language arts, mathematics, science and social studies for LEAP;

2. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2174 (November 1999), amended LR 33:

§909. State Funding of Remedial Education Programs

A. - D. ...

E. For funding purposes, a student receiving remediation in English language arts, written composition, mathematics, social studies and/or science, shall be counted for each area in which remediation is needed [R.S. 17:398(B)] for the Graduation Exit Examination and for English language arts and mathematics for LEAP.

F. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2174 (November 1999), amended LR 33:

§911. Criteria for State Approval

A. Student Eligibility

1. Any public elementary or secondary student, including a student with a disability participating in LEAP who does not meet the performance standards established by the department and approved by the state board, as measured by the state criterion-referenced tests, shall be provided remedial education (R.S. 17:397).

A.2. - C.1. ...

a. The Remedial Education Student Profile for the LEAP /Graduation Exit Examination, provided by the LDE shall be used by the local school system for providing remediation for each eligible student (Board Policy).

2. - 2a. ...

3. Instruction

a. For the Graduation Exit Examination (GEE), remediation shall be provided in English Language Arts, Mathematics, Science, and Social Studies. Students shall be offered 50 hours of remediation in each content area they do not pass.

b. Beginning in the summer of 2006, remediation in the form of summer school shall be provided to both fourth and eighth grade students who score at the "Approaching Basic" or "Unsatisfactory" level on the LEAP English Language Arts and/or Mathematics tests. Summer Remediation shall consist of a minimum of 50 hours of instruction per subject.

c. Remediation shall be provided to students who score at the "Unsatisfactory" level on the LEAP Science and Social Studies tests.

d. Remediation is recommended for fourth and eighth grade students who score at the "Approaching Basic" level on the LEAP Science or Social Studies tests.

e. - g. ...

D. Student Assessment

1. The parish and city school boards shall develop, as part of their Pupil Progression Plans, mastery criteria based on the State Content Standards, Grade-Level Expectations (GLEs), and local curricula based on these standards and GLEs [R.S. 17:395(D) and Board Policy].

2. For the Graduation Exit Examination these mastery criteria shall be used in determining the extent of student achievement in those grade appropriate skills in English language arts, written composition, mathematics, social studies, and/or science in which he/she was found deficient (R.S. 17:395(D), 17:24.4(G) and Board Policy).

3. For LEAP, these mastery criteria shall be used in determining the extent of student achievement in those grade appropriate skills in English language arts, mathematics, science and social studies.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2175 (November 1999), amended LR 27:189 (February 2001), LR 30:409 (March 2004), LR 31:1976 (August 2005), LR 33:

Chapter 11. Appendix A

§1101. Definition of Terms

A. As used in this bulletin the terms shall be defined as follows.

1. State Terms

* * *

LEAP Summer Remediation Program—the summer school program offered by the LEA for the specific purpose of preparing students to pass the LEAP summer retest in English language arts, or mathematics.

* * *

2. - 2.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2176 (November 1999), amended LR 27:190 (February 2001), LR 31:1976 (August 2005), LR 33:

Chapter 13. Appendix B

§1301. LEAP High Stakes Testing Policy

A. LEAP High Stakes Testing Policy (Grades 4 and 8)

1. A student may not be promoted to the fifth or ninth grade until he or she has scored at or above the "Basic" achievement level on either the English Language Arts or Mathematics component on the fourth or eighth grade LEAP and at the "Approaching Basic" achievement level on the other (hereafter referred to as the "Basic/Approaching Basic" combination). For promotional purposes; however, a student shall score at or above the "Basic/Approaching Basic" combination on the English Language Arts and Mathematics components of LEAP only one time.

2. A parent/student/school compact that outlines the responsibilities of each party will be required for students in

grades 3, 4, 7, and 8 who have been determined to be at risk of failing to achieve the "Basic/Approaching Basic" combination on the English Language Arts and Mathematics components of the fourth or eighth grade LEAP, as well as for students who were retained in grades 4 or 8.

3. LEAs shall offer a minimum of 50 hours per subject of summer remediation and retest opportunities in English language arts and mathematics at no cost to students who did not take the spring LEAP tests or who scored "Approaching Basic" and/or "Unsatisfactory" on the English Language Arts and/or Mathematics component(s) on the spring tests.

a. A student who failed to achieve the "Basic/Approaching Basic" combination is not required to attend the LEA-offered LEAP summer remediation program in order to be eligible for the summer retest.

b. All students with disabilities who participate in LEAP should receive services along with regular education students in summer remediation programs, with special supports provided as needed.

c. Students with disabilities who participate in LEAP Alternate Assessment, Level 1 (LAA1), are not eligible to attend the LEAP 21 summer remediation programs.

3.d. - 4.a. ...

i. focused instruction in the subject area(s) on which they scored at the "Approaching Basic" and/or "Unsatisfactory" level on LEAP; and

ii. ...

b. LEAs are also encouraged to design and implement additional instructional strategies for students in grades 3, 4, 7, and 8 who have been determined to be at risk of failing to achieve the "Basic/Approaching Basic" combination on LEAP.

5. Promotion/Retention Policies

a. Grade 4

i. A student may not be promoted to the fifth grade until he or she has scored at or above the "Basic" achievement level on either the English Language Arts or Mathematics component on the fourth grade LEAP and at the "Approaching Basic" achievement level on the other.

ii. The decision to retain a student in the fourth grade more than once as a result of his/her failure to achieve the "Basic/Approaching Basic" combination on the English Language Arts and Mathematics components of LEAP shall be made by the LEA in accordance with the local Pupil Progression Plan which shall include the following.

ii.(a). - iii. ...

(a). The student's highest score in English Language Arts and/or Mathematics on either the spring or summer LEAP must fall within 20 scaled score points of the cutoff score for "Basic."

(b). ...

(c). The student must have attended the LEAP summer remediation program.

(d). The student must have taken the LEAP retest given after the LEAP 21 summer remediation program has been concluded.

(e). - (f). ...

iv. LEAP Testing

(a). Students retained in the fourth grade shall retake all four components of LEAP.

b. Grade 8

i. A student may not be promoted to the ninth grade until he or she has scored at or above the "Basic" achievement level on either the English Language Arts or Mathematics component on the eighth grade LEAP and at the "Approaching Basic" achievement level on the other.

ii. After the summer retest, a school system, through its superintendent, may consider a waiver for an eighth grade student who has scored at the "Approaching Basic" level on both the English Language Arts and Mathematics components of LEAP. The LEA may grant the waiver in accordance with the local Pupil Progression Plan provided the following criteria are met.

(a). The student may be promoted to the ninth grade, provided that he or she has scored at the "Approaching Basic" level on both the English Language Arts and Mathematics components of LEAP, has attended the LEAP summer remediation program offered by the district, and has taken the summer retest administered at the conclusion of the summer program.

ii.(b). - iii.(a). ...

(b). promoted to the ninth grade, provided that the student has scored at the "Approaching Basic" level on either the English Language Arts or Mathematics component of LEAP, has attended the LEAP summer remediation program offered by the District in, at a minimum, the "Unsatisfactory" subject, and has taken the summer retest administered at the conclusion of the summer program. If promoted with an "Unsatisfactory" on the English Language Arts or Mathematics component of LEAP, the student must enroll in and pass a high school remedial course in the "Unsatisfactory" subject (English language arts or mathematics) before enrolling in or earning Carnegie credit for English or mathematics; or

(c). ...

iv. LEAP Testing

(a). Students repeating the eighth grade will retake all four components of LEAP.

5.b.iv.(b). - 6.a.i.(a). ...

(b). the student has participated in both the spring and summer administrations of LEAP and has attended the summer remediation program offered by the LEA (the student shall participate in the summer retest only on the subject that he/she scored at the "Unsatisfactory" achievement level during the spring test administration); and
a.i.(c). - d. ...

i. A school system, through its superintendent, may grant a waiver on behalf of individual students who are unable to participate in LEAP testing or unable to attend LEAP summer remediation because of one or more of the following extenuating circumstances as verified through appropriate documentation:

i.(a). - iii. ...

(a). Students who meet the criteria for extenuating circumstances under the *physical illness, chronic physical condition, or court-ordered custody category* related to LEAP; and

(b). who are unable to participate in both the spring and the summer administration of LEAP; or

(c). who failed to achieve the "Basic/Approaching Basic" combination on the spring administration of LEAP English Language Arts and

Mathematics tests and are unable to participate in LEAP summer retest:

(i). - (iii).NOTE. ...

(d). students who meet the criteria for extenuating circumstances under the *physical illness, chronic physical condition, or court-ordered custody category* related to LEAP; and

(e). who are unable to participate in the spring testing and/or summer remediation, including the provision of remediation through hospital/home bound instruction, are required to take the LEAP summer retest. These students may be eligible for the policy override or appeals process in accordance with the local Pupil Progression Plan.

NOTE: The appeals process is available only to fourth grade students.

6.e. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:1008 (July 2001), amended LR 27:1683 (October 2001), LR 28:1189 (June 2002), LR 29:123 (February 2003), LR 30:409 (March 2004), LR 31:1976 (August 2005), LR 31:3104 (December 2005), LR 33:

Chapter 15. Appendix C

§1501. Waiver Request

A. - A.2.a. ...

i. the student must score at the "approaching basic" or above achievement level on either the English language arts or mathematics component of LEAP;

2.a.ii. - 3.a. ...

i. the student must meet the required combination achievement level ("Basic/Approaching Basic") on the English Language Arts and Mathematics components of LEAP;

ii. ...

iii. the student must obtain a composite score of 1200 on all four components of the fourth grade LEAP;

iv. in order to move students toward the required combination achievement level ("Basic/Approaching Basic") on the English Language Arts and Mathematics components of LEAP, the student must be provided remediation in the subject area(s) on which the student scored below "basic" on LEAP; and

v. in order for students to attain the required composite score (1200) on LEAP, focused instruction should be provided in the subject area(s) (Science and/or Social Studies) on which the student scored "unsatisfactory."

4. Section IV

a. Required Documentation

i. A school system requesting a waiver must submit data to the State Superintendent of Education that supports the effectiveness of their previously operated fourth grade transitional program. This data must include an analysis of sixth grade iLEAP scores that compare fourth grade students who repeated the entire grade, fourth grade students who repeated the grade in a transitional program (4.5 program), and fourth grade students who did not repeat any grades.

5. Section V

a. Assurances

i. I assure that the fourth grade transitional program described in the current, local Pupil Progression

Plan meets all of the requirements as outlined in Sections I, II, III, and IV of this document.

ii. ...

iii. School systems applying for this waiver must submit their request by the 2nd Friday in July, and receive approval from the State Superintendent of Education prior to the implementation of a transitional (4.5) program that provides the option of promotion to the sixth grade. School systems must submit all required documentation as listed in Section IV, and if approved, Sections I, II, and III must be included in the school system's current Pupil Progression Plan.

iv. - v. ...

6. Section VI

a. Approved/Denied: (circle one)

Paul G. Pastorek
State Superintendent of Education

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:413 (March 2004), amended LR 31:1978 (August 2005), LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., August 9, 2007, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 1566—Pupil Progression Policies and Procedures**

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

The revisions to the policy include removing the word "Guidelines" from the Bulletin title, and other technical changes. The implementation of the revisions requires no cost or savings to state or local governmental units.

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

There will be no effect on revenue collections of state or local governmental units.

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

There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
Management and Finance
0706#025

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1794—State Textbook Adoption Policy and Procedure Manual (LAC 28:XXXIII.507 and 701)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement amendments to *Bulletin 1794—State Textbook Adoption Policy and Procedure Manual* (LAC Part XXXIII).

Section 507.F.1 replaces the term "examination copies" with "samples" as a clarification between materials that are received by a school system for review and adoption, and textbooks that are given for review by those persons outside the adoption process.

Section 507.F.2 clarifies and replaces the term "sufficient quantities" with a description of the number of samples per grade/subject that can be requested by a school system to one per school, one per school district, and up to two additional teacher editions when requested by a supervisor.

Section 507.F.4 deletes this section which prohibited "examination copies," because §701.I now permits examination copies to be given in some cases.

Section 701.I prohibits certain promotional activities by vendors with materials under state and/or local bid process.

Section 701.I.1 clarifies that the limitations upon promotional activities do not apply to the display of materials under review nor to the dissemination of examination copies to school personnel, if the materials will be used to benefit Louisiana students.

Section 701.M adds a section to the publisher requirements that imposes limits upon the number of samples per grade/subject that can be provided to schools, districts, and/or to the Supervisor. The language parallels similar language under district requirements in §507.F.

Section 701.N adds a section to publisher requirements that outlines and imposes consequence for policy violations. The language specifies that complaints must be in writing and allows an opportunity for response to a reported violation. Consequences include a formal letter of warning to the company, recommendations from the department to the state Board of Elementary and Secondary Education for removal from the current or future adoption process, and/or the delay/negation of contract negotiations.

Title 28
EDUCATION

**Part XXXIII. Bulletin 1794—State Textbook Adoption
Policy and Procedure Manual**

Chapter 5. Local School System Responsibilities

§507. Local Adoption Procedures

A. - E.4. ...

F. Sampling of Textbooks by Publishers; Violation Will Disqualify Publisher.

1. Publishers are to furnish samples only at the written request of the local school system textbook adoption coordinator after the state committee review.

2. Samples are to be limited to one sample pack per grade/subject per school, plus one additional set per district. Supervisors may request up to two additional teacher editions per grade/subject.

3. ...

4. Publishers must notify local school systems, in writing, of the need to have samples returned. If notified by publishers, all samples received by local school systems must be picked up by the publisher within 30 days after the local adoption.

5. Publishers must make all necessary arrangements for sample returns at publisher's expense.

6. The "piloting" of new materials in any school or school system prior to official review by the State Textbook Adoption Committee and final approval by the SBESE is prohibited. Publishers are not to offer school-wide copies or classroom sets of any item or material on a trial or pilot basis.

G. - I.2. ...

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1443 (August 1999), repromulgated LR 26:998 (May 2000), amended LR 29:124 (February 2003), LR 32:1031 (June 2006), LR 33:

Chapter 7. Publishers' Responsibilities

**§701. Requirements for Publishers' Participation in
State Textbook Adoption**

A. - H. ...

I. Awareness sessions or any similar activities are strictly prohibited. Publishers shall not contact teachers, principals, or other school system employees, provide meals, materials, trips, or any other free items in conjunction with a preview or overview of materials being considered for adoption. This does not prohibit publishers from displaying at conferences materials being considered for adoption.

1. Upon request by school personnel at conferences, publishers may provide examination copies if the materials are to be used for the benefit of Louisiana students.

J. - L.1. ...

M. Publishers are to furnish sample materials only at the written request of the local school system textbook adoption coordinator after the state committee review.

1. Samples are to be limited to one sample pack per grade/subject per school, plus one additional set per district. Supervisors may request up to two additional teacher editions per grade/subject.

N. Consequences for policy violations will be imposed.

1. Complaints of possible policy violations shall be in writing. The party against whom the complaint is made will

be afforded an opportunity to respond in writing. After consideration, the agency shall take appropriate action which may include a formal written letter of warning to the publishing company home office, its local representative, the Louisiana Association of Publishers.

2. Repeated violations will be reported to the state Board of Elementary and Secondary Education with department recommendation to dismiss the publisher from current and/or future adoption.

3. Reported violations may also result in delay of or negate contract negotiations.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1446 (August 1999), repromulgated LR 26:1002 (May 2000), amended LR 29:125 (February 2003), LR 32:1031 (June 2006), LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office that has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule effect the functioning of the family? No.

4. Will the proposed Rule effect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., August 9, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

**RULE TITLE: Bulletin 1794—State Textbook
Adoption Policy and Procedure Manual**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Bulletin 1794 is revised to clarify certain terminology, limit certain promotional activities during the bid process, and impose consequences for policy violations as follows:

§507.F.1.—replaces the term "examination copies" with "samples" as a clarification between materials that are received by a school system for review and adoption, and textbooks that are given for review by those persons outside the adoption process.

§507.F.2.—clarifies and replaces the term "sufficient quantities" with a description of the number of samples per

**Title 28
EDUCATION**

Part III. Proprietary Schools

Chapter 1. General Provisions

§101. Citation and Abbreviation

A. These rules and regulations of the Board of Regents ("Board") govern the licensing and monitoring of proprietary schools operating in Louisiana upon the recommendation and advice of the Proprietary Schools Advisory Commission ("Commission").

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(D)(2) and (E).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§103. Definitions

A. *Proprietary Schools*, hereinafter referred to as "school"—any business enterprise operated on a profit or on a nonprofit basis which maintains a place of business within this state, or which sells or offers for sale any course of instruction in this state, either by correspondence using the mails or by any other means of communication, or by personal solicitation, at which place of business such course or course of instruction or study is available through classroom instruction, or both, to a person or persons for the purpose of training or preparing such person(s) for a field of endeavor in a business, trade, technical, or industrial occupation, except as hereinafter excluded. For purposes of this definition, a school that sells or offers for sale any course of instruction in this state through the internet or by correspondence is deemed a school only if it is also domiciled in the state or has a physical presence in the state. Physical presence shall include a mailing address in the state, a solicitor recruiting students in the state, or actual facilities in the state. The definition of a school shall not include:

1. a school or educational institution supported entirely or partly by public funds from either a local or state source. This provision only exempts from the board's regulation those schools that derive direct and significant support from public funds (such as through direct appropriation, and not schools that derive indirect benefit from public funds, such as through contractual payments from governmental agencies);

2. a parochial, denominational or eleemosynary school or institution that provides religious training or theological education; however, any such school or institution that also offers training in a secular field of endeavor shall be subject to the provisions of this Chapter;

3. a school or training program which offers instruction primarily in the field of recreation, health, entertainment or personal enrichment and which does not purport to prepare or qualify persons for employment as determined by the commission;

4. a course or courses of instruction or study sponsored by an employer exclusively for the training and preparation of its own employees when the employer is not primarily engaged in the business of selling or offering

grade/subject that can be requested by a school system to one per school, one per school district, and up to two additional teacher editions when requested by a supervisor.

§507.F.4.—deletes this section which prohibited "examination copies," because §701.I. now permits examination copies to be given in some cases.

§701.I.—prohibits certain promotional activities by vendors with materials under state and/or local bid process.

§701.I.1.—clarifies that the limitations upon promotional activities do not apply to the display of materials under review nor to the dissemination of examination copies to school personnel, if the materials will be used to benefit Louisiana students.

§701.M.—adds a section to the publisher requirements that imposes limits upon the number of samples per grade/subject that can be provided to schools, districts, and/or to the Supervisor. The language parallels similar language under district requirements in Section 507 F.

§701.N.—adds a section to publisher requirements that outlines and imposes consequence for policy violations. The language specifies that complaints must be in writing and allows an opportunity for response to a reported violation. Consequences include a formal letter of warning to the company, recommendations from the Department to the State Board of Elementary and Secondary Education for removal from the current or future adoption process, and/or the delay/negation of contract negotiations.

There are no estimated implementation costs (savings) to state or local governmental units as a result of these changes.

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

There will be no effect on revenue collections of state or local governmental units.

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

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy superintendent
0706#006

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Education
Board of Regents**

Proprietary Schools (LAC 28:III.Chapters 1-21)

Editor's Note: This Notice of Intent is being repromulgated to correct an error upon submission. The original Notice of Intent was published on pages 867-878 of the May 2007 edition of the *Louisiana Register*.

In accordance with the Administrative Procedure Act, R.S. 17:3141 et seq., notice is hereby given that the State Board of Regents for advertisement to repeal the old rules and adopt new rules and regulations to LAC 28, Part III, Proprietary Schools.

course of instruction or study. This includes those businesses that engage in contract training exclusively, and where admission/enrollment is not available to the general public;

5. a course or courses of study or instruction sponsored by a recognized trade, business or professional organization for the instruction of the members of such organization;

6. private colleges and universities which only award a baccalaureate or higher degree and which maintain and operate educational programs for which academic credits are given;

7. a private school which provides a basic academic education comparable to that provided in the public schools of the state;

8. a school offering a program only for children under six years of age;

9. a school which is otherwise regulated and licensed under the laws of this state;

10. a private tutor, teacher or individual engaged in giving private tutoring or lessons to five persons or less in non-school connected activities severed from the regular curriculum of a school as determined by the commission;

11. a day camp;

12. a training program that does not have attendance requirements in place for persons taking the courses and which offers for sale only non-sequential and non-continuous courses of one week duration or less which do not exceed 20 hours of training;

13. a manufacturer-certified training center that offers, at no additional charge to the person receiving training, manufacturer-authorized training that is included as part of the manufacturer's pricing package to prepare persons for certification conferred by the manufacturer and that uses course equipment and materials which are developed and sold by the manufacturer and course instructors and facilities which are certified by the manufacturer;

14. a school or business enterprise which offers instruction to prepare students for tests which are required for entry into a post secondary program of study; or

15. a business which engages in contract training and is reimbursed by the business.

B. *Branch School*—a separate facility established by a main school, under the main school's management, control and supervision. The branch may offer full student services and is under the supervision of a designated on-site employee responsible for the day-to-day operation of the branch. Each branch school shall be separately licensed and bonded.

C. *Commission Staff*—the staff of the board's Proprietary Schools Section, authorized to aid in the administration of the commission's functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.2(5).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§105. Proprietary Schools Law and the Administrative Procedure Act Incorporated

A. R.S. 17:3141.1 et seq., inclusive, known as the Proprietary Schools Law, and R.S. 49:951 et seq., known as the Administrative Procedure Act, in their currently existing form and as may be amended, are hereby incorporated herein. All remedies and procedures available to the public

under these laws, as they pertain to this commission, are hereby made available herein as rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.1, R.S. 49:954.1(A), R.S. 17:3141.3(E).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§107. Computation of Time

A. In computing a period of time allowed or prescribed by these rules, by law or by order of the commission or of court, the date of the act, event, or default after which the period begins to run is not to be included. The last day of the period is to be included, unless it is a legal holiday or a day of the weekend, in which event the period runs until the end of the next day, which is not a legal holiday or a day of the weekend.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), La. C.C.P. art. 5059.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Chapter 3. Procedures

Subchapter A. General Procedural Rules

§301. Initiation of Proceedings

A. Proceedings. Proceedings for the adoption, amendment, or repeal of a rule may be commenced by the board or commission upon its own initiative or pursuant to reasonable grounds therefore. The commission however, shall initiate procedures to adopt, amend or repeal a rule whenever the attorney general requests same.

B. Process for Initiation. Any interested person may petition the commission requesting the adoption, amendment, or repeal of a rule. The petition shall be filed in the office of the commission located at the Claiborne Building, the Louisiana Board of Regents, Proprietary Schools Section, 1201 N. Third St., Suite 6-200, Baton Rouge, LA 70802 or P.O. Box 3677, Baton Rouge, LA 70821, or such other address in the event the commission relocates, at any time during normal office hours, from 8 a.m. to 4:30 pm, except for legal holidays and the weekend. Within 90 days after submission of a petition, the commission shall either deny the petition in writing stating reasons for the denial, or shall initiate rule-making proceedings in accordance with these rules. Any person whose petition is not deemed by the commission sufficient to warrant the holding of a rule-making proceeding will be promptly notified of that determination and may be given an opportunity to submit additional data.

C. Investigations and Conferences. In connection with any rule-making proceedings, the commission at any time may conduct such investigations, make such studies, and hold such conferences as it may deem necessary.

D. Notice. Prior to the adoption, amendment, or repeal of any rule, the commission shall give notice of its intended action in accordance with R.S. 49:953(A)(1). The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon. The notice shall be mailed to all persons who have made a timely request of the agency for advance notice of its rule-making proceedings and shall be published at least once in the official state journal.

E. Opportunity to be Heard. Prior to the adoption, amendment, or repeal of any rule, the commission shall

afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing, in accordance with R.S. 49:953(A)(2).

F. Emergency Rules. If the commission finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule upon shorter notice than that provided above, it may proceed to adopt emergency rules in accordance with R.S. 49:953(B). The Emergency Rule thus adopted may be effective for a period not to exceed 60 days, but the adoption of an identical rule otherwise under these rules is not precluded.

G. Filing, Publication and Effective Date of Rule. The commission shall file with the Office of State Register a certified copy of any rule or regulation adopted upon the completion of a rule-making proceeding and publish the same in the official state journal in accordance with R.S. 49:954. Such rules or regulations shall become effective pursuant to R.S. 49:954(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953, R.S. 49:954.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Subchapter B. Pleadings

§303. Petition to Adopt, Amend or Repeal a Rule

A. Petition to Adopt, Amend, or Repeal a Rule—

1. a petition to adopt, amend, or repeal a rule shall be typed or printed on either standard letter size bond paper or on standard legal size bond paper;

2. the petition shall be dated and shall contain the following:

- a. the title of the pleading (i.e., "petition");
- b. the names of the petitioners;
- c. the names of representatives and legal counselors of such petitioners (if applicable);
- d. all pertinent allegations of fact, data, views, arguments and reasons supporting the action sought by the petition;
- e. a statement or prayer expressing the exact action sought by the petition; and
- f. the signatures of all petitioners, if individual, natural persons, or the signatures of duly qualified representatives of petitioner, if a governmental agency or subdivision or an association of persons;

3. the petition, in setting forth all pertinent allegations of fact, data, views, arguments, and reasons supporting the action sought by the petition, shall contain separate, numbered paragraphs, one for each fact, data, view, argument, and reason set forth;

4. the petition, in expressing the exact action sought by it, shall cite and quote the rule to be adopted, amended, or repealed; and if a rule is sought to be amended, the petition shall quote the rule as it would read after amendment, if it were in fact amended; and

5. only substantial compliance is necessary to meet the requirements of form, and to that end, the provisions of this section shall be liberally construed in favor of accepting the petition.

B. Other Pleadings. Pleadings of any type may be submitted to the commission. They shall be similar in form to that of petitions, except that they may exclude those things peculiar to petitions and shall include those things to which they pertain.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Subchapter C. Citation and Production of Evidence for Rule-Making Procedures

§305. Voluntary Submission of Evidence

A. Any interested person may voluntarily submit evidence, testimonial or real, to the commission, such evidence being relevant and material to any issue involved in the adoption, amendment or repeal of any rule, to the corroboration of or to the unreliability or inaccuracy of any witness or other source of evidence submitted, or to the credibility or non-credibility of any witness or other source of evidence submitted, in the same form and manner as otherwise provided herein or by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Subchapter D. Public Hearings

§307. Adjudication

A. Process. In any matter defined as adjudication in R.S. 49:951(1), notice shall be given, hearings held and a decision or order issued, all in accordance with the procedures provided for adjudications in R.S. 49:955-961. Upon the conclusion of the hearing and consideration of all evidence presented, the commission shall submit a recommended decision or order to the board for board approval.

B. Rules of evidence:

1. the commission may admit and give probative effect to evidence which possesses probative value and which is commonly accepted by reasonably prudent men in the conduct of their affairs. It shall give effect to the rules of privilege recognized by law. It shall exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form;

2. all evidence, including records and documents in the possession of the commission of which it desires to avail itself, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by all interested persons before being received in evidence; and

3. notice may be taken of judicially recognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the commission's specialized knowledge. All persons who have shown an interest therein shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The commission's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

C. Admission of Depositions. The presiding officer or any person interested in a proceeding before the commission

may take the depositions of witnesses, within or without the state, in the same manner clothed with all the formalities as provided by law for the taking of depositions. Depositions so taken shall be admissible in any proceeding affected by this Chapter. The admission of such depositions may be objected to at the time of hearing and may be received in evidence or excluded from the evidence by the presiding officer in accordance with the rules of evidence provided in this Chapter above.

D. Reopening Hearing and Rehearings. The commission may reopen any hearing for good cause shown, and may grant a rehearing in accordance with R.S. 49:959.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:955, R.S. 49:956, R.S. 49:959.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Subchapter E. Declaratory Orders and Rulings

§309. Declaratory Orders and Rulings

A. The commission shall consider petitions for a declaratory order or ruling as to the applicability of any statutory provision or of any rule or order of the board, submitted pursuant to R.S. 49:962, hold hearings if necessary, and submit a recommended declaratory order or ruling. A petition for a declaratory order or ruling shall contain:

1. the title of the pleading (e.g., "Petition for Declaratory Order");
2. the names of the petitioners;
3. the names of representatives and legal counselors of such petitioners (if applicable);
4. a concise statement of the issue posed, along with citations to the statute, rule or order at issue;
5. a clearly organized statement of all pertinent allegations of fact and data, and if the petitioner takes a specific position on the issue, the arguments and reasons supporting such position;
6. a statement or prayer expressing the exact action sought by the petition;
7. the signatures of all petitioners, if individual, natural persons, or the signatures of duly qualified representatives of petitioner, if a governmental agency or subdivision or an association of persons; and
8. only substantial compliance is necessary to meet the requirements of form, and to that end, the provisions of this section shall be liberally construed in favor of accepting the petition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Chapter 5. License Requirements

§501. Applications

A. General

1. All applications must comply with the provisions of R.S. 17:3141.4, as well as any applicable provisions of these regulations. All applications concerning licenses are to be submitted to the commission at the following address or such other address in the event the commission relocates:

Louisiana Board of Regents
 Proprietary Schools Section
 Post Office Box 3677
 Baton Rouge, LA 70821-3677

2. All applicable fees, as provided below, must be by company, institutional, certified check, or by money order and must be made payable to the "Louisiana Board of Regent", with the exception of the Student Protection Fund which is to be made payable to the "Student Protection Fund." Except for overpayments toward the Student Protection Fund, no portion of any license fee shall be subject to refund.

B. Initial Application and License Fee. The initial license application fee shall be \$2,000. A payment of \$1,000 toward the student protection fund must be paid along with the license fee.

C. Renewal Application and Fee

1. The annual renewal application fee is based on the school's gross tuition revenues for the previous year as follows.

Under \$50,000	\$500
\$50,000 and up	Greater of \$1,000 or 0.25% of gross tuition income

2. If a complete license renewal application is not received at least 30 days prior to its expiration date, in addition to the renewal fee, there shall be a delinquent fee of \$500. In addition to the renewal application fee and any delinquent fee, a payment to the Student Protection Fund, if applicable, must be made in accordance with R.S. 17:3141.16.

D. License Fee for Solicitors. The annual license fee for each solicitor/sales representative of a school shall be \$100.

E. Reinstatement Licensure Fee. The reinstatement licensure fee for a suspended school shall be \$500.

F. Change of Ownership Application and License Fee. All changes of ownership are contingent upon approval from the board. Applications for a new license must be requested within 10 days of the change of ownership. No license shall be transferable. The application fee is \$2,000. A payment of \$1,000 toward the student protection fund must be made along with the application fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.4, R.S. 17:3141.9(A)(1).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§503. Student Protection Fund

A. First Payment. Initial (new) schools and change-of-ownership schools shall be required to submit their first payment of \$1,000 made payable to the "Student Protection Fund" with their application.

B. Annual Payment. The required annual payments, if applicable, to the Student Protection Fund shall be collected based on the schedule provided in R.S. 17:3141.16.

C. Collection Schedule. Annual payments shall cease when the fund accumulates to \$800,000 but shall resume when the fund drops below \$750,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.16.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§505. Affidavits

A. Applications and renewal applications must be accompanied by affidavits (PSC-9 Form) by each owner, director, instructor, and all office and clerical personnel,

unless previously approved, and Solicitor Permit Applications (PSC-4 Form) by each solicitor containing the information prescribed by Subsection C(11) or R.S. 17:3141.1 (for solicitor renewal, see Section 703). In the case of office and clerical personnel, in lieu of the affidavits of such personnel, the owner may submit an affidavit setting forth the information prescribed by Subsection C(11) of R.S. 17:3141.4 concerning such personnel. Such information shall be based on the owner's investigation and knowledge. For solicitor renewal, see Section 703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.4(D).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§507. Surety Bond

A. Each license application must be accompanied by a surety bond in the amount of \$10,000 issued by a surety authorized to do business in Louisiana. The bond must meet the requirements set forth in R.S. 17:3141.5 and the PSC-3 Form. Bond releases and terminations shall be as provided in R.S. 17:3141.5(D) and (E), and suspension of operating license for lack of surety bond coverage is governed by R.S.17:3141.5(F). A school may be exempted from filing a surety bond if it meets all of the following requirements:

1. does not require students to pay tuition for course of study more than one month in advance;
2. has been in continuous operation for at least five years; and
3. has met all the requirements of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.5(D), R.S. 17:3141.5(E).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§509. Other Provisions Concerning License

A. A license shall be valid only for the school and shall not include other schools or branches operated by the owner. Each separate location or branch school shall be licensed and bonded. No new courses shall be offered by any school holding a license until it is approved by the commission staff in accordance with procedures to be established by the commission.

B. Each license must be displayed on the premises. No license shall be transferable. In the event of a change of ownership of the school, the license shall be revoked unless the new owner, within 10 days after the change of ownership, requests an application for a license to operate the school.

C. Any person who contemplates the purchase of a school may apply for a license. If the board grants such a license, it shall become a valid license only upon completion of the proposed sale.

D. All licenses shall be renewed annually, not less than 30 days prior to expiration date thereof. Updated information must contain all changes in staff, school programs, etc., including all additions and deletions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.5(B)(C).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§511. Denial of Recommendation of License and Commission Hearing

A. If the commission or commissioner recommends the denial of a license, the commission shall hold a hearing upon

the applicant's request, as provided in R.S. 17:3141.6. The applicant may appear in person or by counsel and may present evidence in support of granting the license. The decision or order resulting from a hearing before the commission is subject to rehearing, reopening, or reconsideration by the commission within 10 days from the date of its entry on the grounds set forth in R.S.49:959 and in accordance with the procedures therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.6.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§513. Revocation of License

A. Licenses may be revoked by the board in accordance with the standards and procedures set forth in R.S.17:3141.8 and statutory and regulatory provisions applicable thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.8.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Chapter 7. Personnel Affidavits/Permits

§701. Completion of Affidavits by Non-Instructional Personnel/Instructional Personnel

A. Completion of Affidavit by Non-Instructional Personnel

1. An affidavit (PSC-9 Form) containing the following information must be submitted by the owner of each school (if a corporation, by each officer and by each director) and by each staff person, except solicitors:

- a. full name and address of said person and the capacity in which he/she serves the school;
- b. the city, parish/county, and state of said person's permanent residence and places of residence for the past five years;
- c. the names and addresses of said person's employer or employers for the past five years;
- d. whether or not said person has ever been convicted of a felony for a crime involving fraud or any misdemeanor other than a traffic violation; and
- e. three persons who may be contacted concerning such person's good moral character.

2. In the case of office and clerical personnel, in lieu of affidavits by the office and clerical personnel, the owner may submit the information in the form of an affidavit by the owner, based on the owner's investigation and knowledge. (Refer to §505.)

B. Completion of Affidavit by Instructional Personnel

1. An affidavit (PSC-9 Form) containing the following information must be submitted by each person who will be serving as an instructor at the school:

- a. full name and address of said person and the capacity in which he/she serves the school;
- b. the names and addresses of said person's employer or employers for the past five years; and
- c. three persons who may be contacted concerning such person's good moral character.

2. Minimum qualifications of an instructor include the following:

- a. an instructor in an academically-credentialed area shall have a baccalaureate degree from a bonafide, accredited college or university, and demonstrate appropriate familiarity with the subject matter taught as evidenced by an academic transcript and/or occupational experience;

b. an instructor, in other than an academically-credentialed area, shall have a high school diploma or its equivalent; a license, diploma, certificate, or other degree from a recognized institution or organization in the area taught; and four years of documented occupational experience in the area taught;

c. as used in this Subsection, a "recognized institution or organization" shall mean any bonafide, licensed, chartered or traditionally accredited business or association legally engaged in commerce, education, training, or advocacy. Recognized institutions or organizations shall include, but not be limited to, governmental agencies, labor unions, trade and professional corporations, and retail, financial, and commercial entities. The commission shall reserve the right to use all reasonable means in verifying the validity of credentials;

d. at the board's discretion, the minimum four years experience required for instructors may be waived for those disciplines where teaching credentials are officially certified, licensed, or otherwise approved or granted by a federal agency; and

e. employees employed prior to May 30, 1989 will be exempted from occupational experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.8.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§703. Solicitor Application, Bonds, Renewal, Denial, and Revocation

All forms are prepared and provided by the Commission Staff.

A. Permits and Applications. No person shall sell any course of instruction or solicit students therefore in Louisiana for any school unless he has obtained a solicitor's permit from the commission. A separate permit is required for each school the solicitor represents. A separate application (PSC-4 Form) with required fee and bond must be submitted for each permit sought (i.e., for each school to be represented).

Louisiana Board of Regents
Proprietary Schools Section
Post Office Box 3677
Baton Rouge, LA 70821-3677

B. Bonds. Surety bonds for permits must be in the amount of \$1,000 for each permit issued. The bond must be continuous and must be issued by a solvent surety authorized to do business in Louisiana (see PSC-5 Form). The bond may be supplied as a blanket bond by a school covering each agent, \$1,000 in amount for each agent. This bond is set forth in PSC-6 Form. If a surety cancels a bond (as provided in R.S. 17:3141.9B) then a substitute bond (meeting all conditions for the original) must be furnished and the solicitor's permit shall be in a state of suspension for any period of time not covered by a proper bond.

C. Renewals. Each permit is valid for one year from date of issuance unless revoked and must be renewed not less than 30 days prior to expiration date. At the time of renewal, the owner/director must submit a PSC-4 Form, (unless the owner/director submits written notification of continued employment of solicitor); a \$100 renewal fee (made payable to the "Louisiana Board of Regents"); and proof of continuous bond coverage.

D. Denial of Permits. The commission may deny recommendations of issuance of a permit when proper

grounds exist therefore. The procedures in such cases shall be in accordance with the applicable provision of R.S. 17:3141.1-3141.14 and R.S. 49:951-966.

E. Revocation of Permits. A permit may be revoked for any of the causes set forth in R.S. 17:3141.11. Notice of contemplated revocation must be given in writing at least 30 days prior to the effective date of revocation. At any time within 30 days prior to the revocation, upon request of the solicitor, the commission shall afford the solicitor an opportunity to be heard in person or by counsel. On or before 30 days prior to the date set for hearing, the commission shall notify the aggrieved solicitor of the date and purpose of the hearing and the grounds for the contemplated revocation of the permit. The procedure for revocation shall be in accordance with those prescribed by R.S. 49:951-966 and by R.S.17:3141.1-14 as applicable to such action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), R.S. 17:3141.8, R.S. 17:3141.9.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Chapter 9. Proprietary Schools Applications **§901. Initial License or Change of Ownership**

A. Please refer to the PSC-14 Form, Proprietary Schools License Requirements Checklist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.4, R.S. 17:3141.5.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§903. License Renewal

A. Renewal letters are mailed to the school owners annually. A license renewal application must be received in this office 30 days prior to the license expiration. If it is not, there shall be a \$500 delinquent fee. Failure to furnish all the renewal information prior to the license expiration date will cause the license to expire. There can be no exceptions or any other extension. The following paperwork must be submitted:

1. a completed PSC-1 Form;
2. the original verification from the bonding company that the surety bonds (\$10,000 for school and \$1,000 per solicitor) are still in effect must accompany the renewal application. The premium period must coincide with the school's licensure period. For example, August 26, 2006-August 26, 2007;
3. a completed PSC-12 form;
4. the renewal fee based upon the school's previous year's gross tuition revenues. The check is to be made payable to the "Louisiana Board of Regents." Refer to the PSC-12 form;
5. financial statements:
 - a. for those schools which participate in Title IV funding, an original set of financial statements that have been audited by an independent Certified Public Accountant licensed in the state of Louisiana, including a current balance sheet and an income statement showing gross tuition receipts for the school's last fiscal year, and in the case of a corporation, signed by an officer of the corporation, sole proprietorship or partnership, signed by the owner(s) or a duly authorized agent acting on behalf of the owner(s), stating that it is true and correct; and
 - b. for those schools which do not participate in Title IV funding, an original set of financial statements that have

been reviewed by a Independent Public Accountant licensed in the state of Louisiana, including a current balance sheet and an income statement showing gross tuition receipts for the school's last fiscal year, and in the case of a corporation or sole proprietorship or partnership, signed by the owner(s) or a duly authorized agent acting on behalf of the owner(s) stating that it is true and correct;

6. an internal compilation reflecting the school's most recent quarter, if the audit/review submitted with the renewal materials, reflects a business year that ended more than 120 days prior to the submission of the renewal materials;

7. a completed PSC-18 Form reflecting the application date listed on the PSC-1 Form;

8. a completed PSC-4 Form for any new solicitor employed with the school. The initial and/or renewal fee is \$100 per solicitor is to be made payable to the "Louisiana Board of Regents;"

9. a completed PSC-9 Form on all instructors and staff employed since the last school renewal, unless previously approved during the year;

10. a current school catalog;

11. a current copy of the Enrollment Agreement/Enrollment Contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.4, R.S. 17:3141.5.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§905. Associate in Occupational Studies (AOS) Degree Application

A. Requirements. An eligible post-secondary school may award a non-academic degree entitled "The Associate in Occupational Studies."

1. The school must be licensed by the board, domiciled in the state of Louisiana, and accredited by a regional or national accrediting agency recognized by the United States Department of Education.

B. The board shall revoke the degree-granting status of any post-secondary school that loses or withdraws its accreditation.

C. No school shall be licensed to award the Associate of Arts or Associate of Science. All advertising, recruiting, and publications shall state clearly that such occupational degree awarded by a post-secondary school is non-academic and does not imply, promise, or guarantee transferability.

D. Each student admitted to an occupational degree program in an accredited post-secondary school shall be required to:

1. have a high school diploma or equivalent; and

2. complete a minimum of two years, four semesters, or six quarters of course work for each occupational degree program.

E. Each AOS degree program shall have a minimum of 75 percent of its course of study in a specific occupational area.

F. Each course of study shall have a minimum of 96 quarter hours if using quarter hours, a minimum of 1800 clock hours if using clock hours, and a minimum of 64 semester hours if using semester hours.

G. Application Enclosures. Enclose one original and eight copies, in binders with tabs, of the following:

1. a completed PSC-1 Form, including the title of the proposed AOS degree program;

2. the completed PSC-11 Form;

3. a blank copy of the diploma that would be awarded upon successful completion of the AOS degree program;

4. a detailed program outline including subject numbers, subject titles, clock hours, quarter hours or semester hours (whichever is used for each subject), and total clock hours, quarter hours, or semester hours (whichever is used for each program);

5. a description of each subject listed on the outline; and

6. an inventory list of equipment/supplies/furnishings available for the AOS degree program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.15.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Chapter 11. Student Protection Fund §1101. Policies and Procedures

A. Student Protection Fund Policy

1. The Student Protection Fund is administered by the board and the commission; shall be subjected to audit and review by the legislative auditor's office.

2. Required refunds due from the Student Protection Fund will be provided on a pro rata basis, or other means as appropriate. Prior to any funds being released from the Student Protection Funds, the school's surety bond must be exhausted.

3. For students that have loans, the administrator of the Student Protection Fund will enter into an agreement with the state guaranty agency that any refunds will be allocated as follows:

a. present holder of the loan, whether lender or LOSFA, and any remaining balance to the borrower;

b. for students without loans, appropriate tuition repayment.

4. Administration of the Student Protection Fund is subject to review by the U.S. Department of Education and the state guaranty agency:

a. the commission staff shall retain all records pertaining to the determination of payment or denial of refunds for a period of not less than one year after the final determination has been made;

b. records shall be maintained in an organized manner; and

c. records shall be readily accessible to the U.S. Department of Education and guaranty agency auditors.

B. Student protection fund procedures:

1. the application for tuition recovery (PSC-15 Form), may be submitted after reasonable efforts to compensate the student from the following resources have been exhausted (see PSC-15 Form for instructions):

a. provide teach-out;

b. acquire refund from the school;

c. acquire refund from any other school resources; and

d. acquire refund from U.S. Department of Education, Closed School Section;

2. lenders holding loans eligible for refunds under the Student Protection Fund may submit the claims to the commission without undertaking any additional collection activity, if the commission determines that the student has not submitted a claim. Submission of a claim by the lender will preclude the student from filing a claim at a later time;

3. refund calculations will be based upon copies of enrollment contracts, student ledger cards, and other pertinent documents submitted by the student; and

4. students and/or lenders applying for relief to the Student Protection Fund will be notified of the status of the request within 60 days of receipt of the application by the commission staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.16.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Chapter 13. Advertising Rules for Proprietary Schools **§1301. Advertising Rules**

A. Advertising. All advertising shall forthrightly disclose the purpose of the advertising, that education or training, not a job, is offered, and that the advertiser is a school. Advertising includes any form of public notice however disseminated or utilized. Within this definition would be all publications, communications, promotional items, and efforts which could normally be expected to be seen or encountered by significant numbers of prospective students or their sponsors. Examples include catalogs and other school publications, signs, mailing pieces, radio, television, audio-visual, newspaper, internet or any other form of public notice resulting from the school's recruiting and promotional activities.

B. Solicitation. In the solicitation of students, a school shall not directly, or by implication, misrepresent the services it renders. All advertisements and promotional literature used shall be truthful, informative and constructive; and avoid conveying any false, misleading or exaggerated impressions with respect to the school, its personnel, its courses and services, or the occupational opportunities for its graduates. The true purpose and nature of a school's offerings shall be evident in all advertising. Every advertisement shall constitute to the reader a clear statement of a bonafide offer or announcement made in good faith. It shall be written to its anticipated readership, normally persons unsophisticated in the traditional word usage of the education industry. Therefore, all solicitation must be truthful and conducted with extreme care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.13, R.S. 17:3141.5(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Chapter 15. Violations **§1501. Authority, Investigation, And Sanctions**

A. Violations. The following is an illustrative, but not exclusive, list of actions constituting a violation:

1. failure to provide the commission with an item of information required by R.S. 17:3141.1 et seq.;

2. misrepresentation about a school's credentials or accreditation;

3. a false claim or guaranty of employment by a school or solicitor;

4. failure to disclose to a student a necessary requirement for employment;

5. false or misleading advertising;

6. unethical behavior by a solicitor;

7. failure to disclose liability for repayment of a student loan;

8. failure to respond to student complaints as provided in the student complaint rule, R.S. 17:3141.3(D)(2)(b) and 17:3131.3(E);

9. employment of an instructor who is unqualified;

10. unsafe or unhealthy condition of a school;

11. unsafe, unhealthy, or inadequate instructional equipment;

12. failure to teach the number of hours claimed;

13. failure to maintain attendance records and to provide them for inspection;

14. failure to comply with a contractual relationship with a student;

15. failure to release the grades of a student;

16. failure to cooperate with an investigator from the commission;

17. attempting to obtain, obtaining, or renewing a license to operate a school by fraudulent misrepresentation or bribery;

18. placement of classified advertisement under "employment" or other similar categories related to employment rather than "education" or "instruction";

19. upon closure, failure to transfer student records to the board; and

20. failure to comply with the provision of R.S. 17:3141.1 et seq., or any written rule or regulation of the board.

B. Authority and Scope. The definition of "school" for the purpose of this rule shall include a licensed school and school owners, employees, operators, agents and solicitors. The commission shall use the following procedures prior to making a recommendation to the board under R.S. 17:3141.8(A) that a school license should be revoked, canceled, or suspended.

1. Any school found to be in violation of any provision of R.S. 17:3141 et seq., or any other state regulation adopted by the commission pursuant to the Administrative Procedure Act governing the administration or operation of a school may be sanctioned by one or more of the following remedies:

a. restitution and remedial measures;

b. civil money penalties (fines); and

c. revocation, suspension, cancellation, or other restrictions on the license.

2. The commission's assessment of a sanction shall be based on the following considerations:

a. whether the violation or substantially similar violation has previously occurred;

b. the duration of the violation;

c. the severity of the violation;

d. the school's history of compliance with the regulations;

e. what sanction is most likely to bring the school into compliance in the shortest time;

f. the "good faith" exercised by the school in attempting to stay in compliance with the regulations; and

g. such other factors as the commission deems appropriate.

C. Investigation

1. When the commission's staff becomes aware of a violation, it may conduct an onsite investigation of a school.

The inspection may or may not be announced at the discretion of the staff.

2. The agent conducting the investigation shall have the authority to:

- a. privately interview administrators, teachers, solicitors, and students;
- b. inspect school records, documents, catalogs, forms, and advertisements; and
- c. inspect the school facilities and equipment.

3. The school shall cooperate fully with the agent.

4. Within five days of the investigation the agent shall prepare a written report which shall be furnished to the commission staff and the school. The report shall contain:

- a. factual findings relevant to the initial violation;
- b. factual findings of any additional violations;
- c. recommendations of remedial measures to be taken by the school; and
- d. recommendations of any sanctions to be taken by the commission including the commission's petition for an injunction to terminate the violation;
- e. the procedure by which an administrative hearing may be requested.

5. Additional or follow-up visits may be made to the school to monitor violations or to monitor remedial measures taken to correct prior violations.

D. Notice of a Violation

1. When a violation of state statutes or regulations governing the administration or operation of a school has occurred, in accordance with R.S. 17:3141.8, the commission staff shall give notice of the violation to the school's director by certified mail, return receipt, and shall afford the school an opportunity to be heard in person or by counsel.

2. The written notice of the violation shall:

- a. specify the violation(s);
- b. cite the legal authority which establishes the violation(s);
- c. cite any sanctions assessed for each violation;
- d. inform the school's director that the determination of the violation and imposition of the sanction are final, and no further administrative or judicial appeals may be had if a timely appeal is not filed; and
- e. inform the school's director if the violation is regarded as a repeat or continuing violation and the manner in which the sanction will be imposed.

3. If the school requests a hearing, the commission staff shall hold a hearing and take evidence. Strict rules of evidence shall not apply. A tape recording of the hearing shall be made. The school may deny the violation, admit the violation in part and deny it in part, or admit the violation but request a reduction or modification of the sanction imposed. The school may present witnesses or documentary evidence in its defense bearing directly on the violation asserted. The school is limited to one witness to attest to its reputation or to remedial measures it has taken. The commission may consider reputation and remedial measures in mitigation of the sanction. For continued or repeat violations, reputation or remedial measures shall not be considered.

4. The commission staff shall have authority to determine for purposes of making a recommendation to the

board, whether a violation is a repeat or continuing violation:

a. a repeat violation is the recurrence of the same or a substantially similar violation within a period of 12 months;

b. a continuing violation is one that may be reasonably expected to continue until corrective action is taken. A continuing violation may be considered as a repeat violation for each day following the day on which the initial violation is established, until such time as there is evidence establishing a date by which the violation is corrected. A continuing violation may be subject to appropriate sanctions for repeat violations up to the number of days of the violation at the discretion of the commission staff.

5. After holding a hearing, the commission shall submit its findings to the board, and may recommend any of the penalties listed in Paragraph 1501.B.1 and Subsection 1501.F, as it deems appropriate. The commission shall also forward a copy of its findings and recommendation to the school, notify the school of the date of the board meeting when the commission's recommendation will be considered, and advise the school of the opportunity to appear at the board's meeting by person or by counsel and be heard. After due consideration of the commission's recommendation and the school's arguments (if the school presents any arguments) and upon a vote of two-thirds of the authorized membership of the board, the board may revoke, cancel, suspend or restrict the school's license, or impose fines or refunds.

6. A sanction which requires monetary payments, either fines or restitution, shall be paid within a timeframe as determined by the board following its notification.

E. Description of Sanctions

1. Restitution and Remedial Measures. The commission may impose sanctions consisting of, but not limited to, the following measures:

- a. rebate of all or a portion of the tuition to the students;
- b. modification or termination of advertising when unwarranted, false, or misleading claims are made, or placement of corrective ads;
- c. counseling of students when they have been misinformed about a material matter;
- d. the posting of a sign in a prominent position in a school correcting a false representation made to the students;
- e. the distribution of an informational leaflet to the students informing them of their rights;
- f. the inclusion or exclusion of information from the student catalog to correct a misrepresentation;
- g. repairs or modification to a physical facility when health or safety is jeopardized;
- h. repairs or modification to equipment when health or safety or delivery of quality instruction is jeopardized;
- i. an order to terminate a gross violation of the statutes or regulations;
- j. an order to cease the enrollment of new students or to limit enrollment to those students who meet more restrictive admission standards; and
- k. modification of the curricula or methods of instruction.

2. Civil Money Penalties (Fines). The commission has the authority to impose a fine up to \$500 for each violation.

Repeat or continuing violations may be assessed separate fines up to \$500 for each day of violation. After a fine is imposed, the commission may allow a specified period of time for the correction of the violation. If the violation is corrected, the commission may waive the payment of the fine. The school may be given the opportunity to demonstrate compliance before the fine becomes final. A violation for which a fine is waived shall still be counted for repeat and continued violations. The right to assess civil fines is not merged in other remedies, and the commission may impose other sanctions in addition to the fines.

3. Revocation of License. The commission may recommend the revocation of a school's license to the board.

F. Appeal Procedure. Any sanction may be administratively appealed as long as the appeal is timely filed in accordance with R.S. 17:3141.8(F).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(D)(2), R.S. 17:3141.8, R.S. 17:3141.14, R.S. 17:3141.18.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Chapter 17. Student Complaint Procedure

§1701. Policies, Conciliation, Conference, Hearing, and Review

A. General Policies

1. The purpose of this complaint procedure is to provide an effective and efficient method by which students may resolve their complaints with the commission staff under the jurisdiction of the board;

2. the commission staff shall prepare and provide a copy of the complaint procedure to each licensed school; and

3. each school shall include in either their catalog or enrollment agreement the following:

a. complaints relative to actions of school officials may be made and must be in writing, addressed to the Louisiana Board of Regents, Proprietary Schools Section, P.O. Box 3677, Baton Rouge, LA 70821-3677, 225/342-4253. Such complaints may be made only after the student has unsuccessfully attempted to resolve the matter with the school by having first filed a written and signed complaint with that school's officials. Any student who wishes to review the student complaint procedure may make a request for a copy of the procedure, in writing, addressed to the Louisiana Board of Regents, Proprietary Schools Section, P.O. Box 3677, Baton Rouge, LA 70821-3677, (225)342-4253.

B. Conciliation—

1. any student who believes he/she has been aggrieved by actions of school officials shall complain in writing to the commission staff at Louisiana Board of Regents, Proprietary Schools Section, Post Office Box 3677, Baton Rouge, LA 70821-3677, 225/342-4253, only after having first filed a written and signed complaint with the school officials;

2. if the complaint is not resolved, the student may submit a written request for assistance to resolve the matter with the school after having first filed a written and signed complaint with that school's officials;

3. copies of this initial notice of the complaint will be sent to the school and to the complainant. A copy must also be retained in the commission staff files;

4. the notice of complaint will request that the student and the school meet and discuss the complaint in a

conciliation effort and/or communicate in writing within 10 days after receipt of the notice;

5. if after 10 days, the complaint has not been satisfactorily resolved, the student may request further assistance from the commission staff; and

6. the commission staff may, at its discretion, eliminate the conciliation procedure where a student has already contacted the school regarding the problem and may proceed directly to the mediation conference.

C. Mediation Conference

1. If the student advises the Section that no satisfactory resolution has been achieved with the school through the conciliation procedure, at that point the commission staff may forward the complaint and all associated materials to the Louisiana Division of Administrative Law.

2. If no amicable resolution is achieved in the mediation process, either party may request, within seven days, a hearing before the commission. Within five working days following a request for a hearing, the commission staff shall send written notice to the parties containing the following:

- a. an explanation of the hearing procedures; and
- b. the date, time and place for the hearing.

D. Hearing:

1. a public hearing shall be held before the commission. The parties shall be given 15 days notice in advance of the hearing, including the time, place and nature of the hearing and a statement of the alleged complaints to be the subject of the hearing;

2. the hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act; and

3. the commission shall prepare a report of its findings and recommendations and submit it to the board. The board shall render a decision accompanied by written reasons within 30 days following the conclusion of the hearing. This decision will be transmitted to all parties with a notice of the right to judicial review.

E. Judicial Review. Either party may appeal to the Nineteenth Judicial District in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), R.S. 17:3141.3(D)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Chapter 19. Student Records

§1901. General Policies

A. All schools shall maintain all student records as required under R.S. 17:3141.16(D)(3). All student records shall include, but are not limited to enrollment agreements, attendance records, financial and academic transcripts, and exit interview.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), R.S. 17:3141.16(D)(3).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§1903. Transfer of Student Records

A. A school must make arrangements to transfer all student records to the Commissioner of Higher Education at the commission's address within 10 days of closing. If any of the records have been seized or confiscated by legal authorities, the board shall request the authorities for documentation regarding seizure of the records. However,

the school remains responsible for turning over unseized records. Any closed school, that maintains student files and electronic files shall make arrangements to electronically transfer such records to the board. The records shall be prepared in the following manner:

1. they shall be filed in alphabetical order;
2. each container will be clearly marked "official records" and will show the alphabetical order within the container (e.g., aa to bc); and
3. the containers shall be sealed to prevent loss or damage and marked in succession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), R.S. 17:3141.16(D)(3).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

§1905. Penalties

A. Failure to maintain and/or turn over student records as provided above will result in the assessment of penalties.

B. If necessary, a claim shall be made against the surety bond posted at the time of submission of the license application to satisfy any penalties for failure to maintain and/or turn over student records pursuant to R.S. 17:3141.5(D)(1)(b)(iv).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), R.S. 17:3141.16(D)(3).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Chapter 21. Exceptions

§2101. Board Authority

A. The board retains the authority to waive or make exceptions to any provision of these regulations if it deems such waiver or exception to be in the public interest. This authority shall be exercised by majority vote of the Louisiana Board of Regents pursuant to request by a school, any interested party, recommendation of the commission, or upon its own motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), R.S. 17:3141.3(D)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested Parties may submit written comments until 4:30 p.m. July 10, 2007, to Larry Tremblay, Board of Regents, P.O. Box 3677, Baton Rouge, LA 70821-3677.

Larry Tremblay
Deputy Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Proprietary Schools

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

There are no estimated implementation costs or savings to state or local governmental units as a result of these changes. The rule changes reflect a complete rewrite and update of the rules to reflect current BOR policy and procedures. There is no fiscal impact because the changes are technical in nature and do not fundamentally alter the regulation of proprietary schools in Louisiana.

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

This rule update has no effect on revenue collections of state or local governmental units. The rule update included no changes to fees, fines, or other charges.

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

This rule update has no costs and/or economic benefits to directly affected persons or non-governmental groups. The rule update included no changes to fees, fines, or other charges.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no effect on competition and employment.

Larry Tremblay
Deputy Commissioner
0706#039

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

2006 Incorporation by Reference for Air Quality
(LAC 33:III.507, 2160, 3003, 5116,
5122, 5311, and 5901)(AQ284ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.507, 2160, 3003, 5116, 5122, 5311, and 5901 (Log #AQ284ft).

This proposed rule is identical to federal regulations found in 40 CFR Parts 51, Appendix M, 60, 61, 63, 68, and 70.6(a) (July 1, 2006); revisions to 40 CFR Parts 60, 61, and 63, in 72 FR 27437-27443 (May 16, 2007); and 40 CFR Part 63, Subpart HH, in 72 FR 26 (January 3, 2007), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA

70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

The proposed rule incorporates by reference (IBR) into the Air regulations, LAC 33:Part III, the following federal regulations in the July 1, 2006, edition of the Code of Federal Regulations (CFR): 40 CFR Part 51, Appendix M, Capture Efficiency Test Procedures; 40 CFR Part 60, New Source Performance Standards; 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAP); 40 CFR Part 63, NESHAP for Source Categories; 40 CFR Part 68, Chemical Accident Prevention and Minimization of Consequences; and 40 CFR 70.6(a), Part 70 Operating Permits Program. The rule also incorporates revisions to 40 CFR Parts 60, 61, and 63, in 72 FR 27437-27443 (May 16, 2007). No new Subparts for 40 CFR Part 60, 61, or 63 are added in the IBR of the July 1, 2006, edition of the CFR, or revisions on May 16, 2007. Any exception to the IBR is explicitly listed in the regulations. The rule also incorporates by reference the federal provisions for area (minor) sources in NESHAP from Oil and Natural Gas Facilities, 40 CFR Part 63, Subpart HH, using the Federal Register notice for the final federal rule, 72 FR 26 (January 3, 2007). This federal rule was not included in the July 1, 2006, edition of the CFR. In order for Louisiana to maintain equivalency with federal regulations, certain regulations in the most current CFR, July 1, 2006, must be adopted into the Louisiana Administrative Code (LAC). This rulemaking is necessary to maintain delegation authority granted to Louisiana by the Environmental Protection Agency. The basis and rationale for this rule are to mirror the federal regulations as they apply to Louisiana's affected sources.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§507. Part 70 Operating Permits Program

A. - B.1. ...

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2006. Upon issuance of the permit, the Part 70 source shall be operated in compliance

with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:

Chapter 21. Control of Emission of Organic Compounds

Subchapter N. Method 43—Capture Efficiency Test Procedures

[*Editor's Note:* This Subchapter was moved and renumbered from Chapter 61 (December 1996).]

§2160. Procedures

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR Part 51, Appendix M, July 1, 2006, are hereby incorporated by reference.

B. - C.2.b.iv. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:809 (May 2006), LR 33:

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference

§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60

A. Except for 40 CFR Part 60, Subpart AAA, and as modified in this Section, Standards of Performance for New Stationary Sources, published in the *Code of Federal Regulations* at 40 CFR Part 60, July 1, 2006, are hereby incorporated by reference as they apply to the state of Louisiana. Also incorporated by reference are revisions to 40 CFR Part 60, Subpart A as promulgated on May 16, 2007, in the *Federal Register*, 72 FR 27437-27443.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of

Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants, published in the *Code of Federal Regulations* at 40 CFR Part 61, July 1, 2006, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana. Also incorporated by reference are revisions to 40 CFR Part 61, Subpart A as promulgated on May 16, 2007, in the *Federal Register*, 72 FR 27437-27443.

40 CFR Part 61	Subpart/Appendix Heading
	* * *
[See Prior Text in Subpart A – Appendix C]	

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2006, are hereby incorporated by reference as they apply to major sources in the state of Louisiana. Also incorporated by reference are revisions to 40 CFR Part 63, Subpart A as promulgated on May 16, 2007, in the *Federal Register*, 72 FR 27437-27443, applicable to major sources.

B. - C.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:

Chapter 53. Area Sources of Toxic Air Pollutants Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources

§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2006, and specifically listed in the following table, are hereby incorporated by reference as they apply to area sources in the state of Louisiana. Also incorporated by reference are the revisions to 40 CFR Part 63, Subpart HH, National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Facilities, applicable to area sources, promulgated on January 3, 2007, in the *Federal Register*, 72 FR 26, and revisions to 40 CFR Part 63, Subpart A as promulgated on May 16, 2007, in the *Federal Register*, 72 FR 27437-27443, applicable to area sources.

40 CFR Part 63	Subpart/Appendix Heading
	* * *
[See Prior Text in Subpart A – Subpart T]	
Subpart X	National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting
Subpart HH	National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Facilities
Subpart EEE	National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors
	* * *
[See Prior Text in Subpart LLL – Subpart IIIII]	

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:810 (May 2006), LR 33:

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

Subchapter A. General Provisions

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

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68, July 1, 2006.

B. - C.6. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:810 (May 2006), LR 33:

A public hearing will be held on July 25, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ284ft. Such comments must be received no later than July 25, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ284ft. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Baratavia Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

0706#017

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Use or Disposal of
Sewage Sludge and Biosolids
(LAC 33:VII.301 and IX.107, 2301, 2313,
7301, 7303, 7305, 7307, 7309, 7311,
7313, 7395, 7397, and 7399)(OS066)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Environmental Quality regulations, LAC 33:VII.301 and IX.107, 2301, 2313, 7301, 7303, 7305, 7307, 7309, 7311, 7313, 7395, 7397, and 7399 (Log #OS066).

This rule removes the provision that restricted the usage of the sewage sludge regulations until such time that the department received delegation for the Sewage Sludge Management Program from the Environmental Protection Agency (EPA). The EPA has had the program implemented in the state since 1993 and will continue to implement the program at the federal level through the Standards for the Use or Disposal of Sewage Sludge regulations in 40 CFR Part 503, in accordance with Section 405(d) and (e) of the Clean Water Act, until such time as the state assumes delegation of the Sewage Sludge Management Program from EPA. Updating and clarification of the regulations are necessary to fully implement the rule at the state level in Louisiana. The regulations are being moved from LAC 33:IX.Chapter 69, and associated appendices in Chapter 71, to LAC 33:IX.Chapter 73. Amendments include restrictions as to what materials can be prepared with sewage sludge; revisions to sewage sludge treatment facility site requirements; revisions to the financial assurance requirements; provisions to allow the land application of a mixture of sewage sludge and grease pumped or removed from a food service establishment; certification of preparers of sewage sludge and land applicators of biosolids; provisions for closure of treatment facilities that were utilized for the treatment of sanitary wastewater or sewage sludge; and permit application submittal deadlines. This rule promulgates provisions of Emergency Rule OS066E6 for the permitting and regulating of sewage sludge use and disposal practices. The basis and rationale for this rule are to provide for the proper regulating of sewage sludge activities for better protection of human health and the environment.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 3. Scope and Mandatory Provisions of the Program

§301. Exempted Waste

A. All *solid wastes*, as defined by the Act and these regulations, are subject to the provisions of these regulations, except as follows:

1. wastes regulated under other authority and not processed or disposed of in solid waste facilities permitted under these regulations, including but not limited to, the following wastes:

a. agricultural-crop residues, aquacultural residues, silvicultural residues, and other agricultural wastes stored, processed, or disposed of on the site where the crops are grown or that are stored, processed, or disposed in accordance with a best management practice plan that has been provided to the Office of Environmental Services and approved in writing by the Department of Agriculture, and within the jurisdiction of the Department of Agriculture;

b. mining overburden, spoils, tailings, and related solid wastes within the jurisdiction of the Department of Natural Resources, Office of Conservation;

c. produced-waste fluids and muds resulting from the exploration for or production of petroleum and geothermal energy, and all surface and storage waste facilities incidental to oil and gas exploration and production, within the jurisdiction of the Department of Natural Resources, Office of Conservation;

d. uncontaminated dredge or earthen excavation spoil;

e. solid wastes while they are stored at residences or commercial establishments and regulated by local ordinance, or within the jurisdiction of the Department of Health and Hospitals;

f. uncontaminated residues from beneficiation of earthen material;

g. uncontaminated storm water and uncontaminated noncontact cooling water;

h. infectious waste or other hospital or clinic wastes that are not processed or disposed of in solid waste processing or disposal facilities permitted under these regulations; and

i. sewage sludge (including domestic septage) that is generated, treated, processed, composted, blended, mixed, prepared, transported, used, or disposed of in accordance with LAC 33:IX.Chapter 73. Sewage sludge and domestic septage not managed in accordance with LAC 33:IX.Chapter 73 shall be managed in accordance with these regulations; and

2. wastes excluded by the definition of *solid waste* in the Act and/or as otherwise specified in the Act, including:

a. hazardous wastes subject to regulation under R.S. 30:2171 et seq.;

b. solid or dissolved material in domestic sewage (such as domestic-oxidation ponds), except separated sludges;

c. solid or dissolved materials in irrigation-return flow;

d. discharges that are downstream from point sources subject to permit under R.S. 30:2074, except waste contained in solid waste facilities prior to the final discharge point, provided, however, that:

i. wastewaters in existing ditches that are downstream of a designated internal state or federal wastewater discharge point are exempt from the definition of *solid waste* if they require no further treatment to meet final state or federal wastewater discharge point permit limits or if they require only pH adjustment to meet final pH permit limits, or suspended solids settling specifically to meet final total suspended solids permit limits;

ii. wastewaters in existing ditches upstream of a designated final state or federal wastewater discharge point that require no further treatment to meet final state or federal permit limits or that only require pH adjustment to meet final pH permit limits, or solids settling specifically to meet total suspended solids permit limits, are exempt from the definition of *solid waste*;

iii. solids or sludges in ditches are exempt from the definition of *solid waste* until such time as such solids or sludges are removed from the ditches for disposal, provided however, that this exclusion from the definition of solid waste only applies to solids and sludges derived from wastewaters described in Clauses A.2.d.i and ii of this Section;

iv. the administrative authority reserves the right to withdraw the exemption for wastewaters in Clauses A.2.d.i and ii of this Section if the wastewaters contribute to groundwater contamination;

e. source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); and

f. compost produced by an individual for his own beneficial use, as provided in R.S. 30:2416.G.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), LR 28:780 (April 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 1. General Provisions

§107. Definitions

* * *

Sewage Sludge—any solid, semisolid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. *Sewage sludge* includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum, domestic septage, portable toilet pumpings, Type III marine sanitation device pumpings (33 CFR Part 159), and sewage sludge products. *Sewage sludge* does not include grit or screenings, or ash generated during the incineration of sewage sludge.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2538 (November 2000), LR 30:1473 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1857 (October 2006), LR 33:

Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Chapter 23. Definitions and General LPDES Program Requirements

§2301. General Conditions

A. The conditions and requirements in this Chapter apply only to facilities and discharges within the scope of coverage of the NPDES program and to permits issued in accordance with the assumption of the NPDES program. Provisions of the federal regulations addressing sewage sludge use and disposal have been retained and state terminology has been substituted for federal terminology as appropriate. Unless specifically indicated in LAC 33:IX.Chapter 73 as being applicable, requirements relative to a state sewage sludge management program in LAC 33:IX.Chapters 23-71 are not applicable until the Department of Environmental Quality (DEQ) receives the sewage sludge management program authority, in accordance with 40 CFR Part 501 under the NPDES program. Until DEQ receives the sewage sludge management program authority, in accordance with 40 CFR Part 501 under the NPDES program, the requirements relative to the state sewage sludge management program are those in LAC 33:IX.Chapter 73. In accordance with R.S. 40:4(A)(6), plans and specifications for a sanitary wastewater treatment facility are reviewed and approved by the state health officer or his designee.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:199 (February 1997), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:230 (February 2004), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:

§2313. Definitions

A. The following definitions apply to LAC 33:IX.Chapters 23-35. Terms not defined in this Section have the meaning given by the CWA.

* * *

Sewage Sludge—any solid, semi-solid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. *Sewage sludge* includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum, domestic septage, portable toilet pumpings, Type III marine sanitation device pumpings (33 CFR Part 159), and sewage sludge products. *Sewage sludge* does not include grit or screenings, or ash generated during the incineration of sewage sludge.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:722 (June 1997), LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2755 (December 2000), LR 28:464 (March 2002), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

Note: Former Chapter 69 has moved to Subpart 3, Chapter 73.

Note: §6901 has moved to §7301.

Note: §6903 has moved to §7303.

Note: §6905 has moved to §7305.

Note: §6907 has moved to §7307.

Note: §6909 has moved to §7309.

Note: §6911 has moved to §7311.

Note: §7131 has moved to §7397.

Note: §7133 has moved to §7399.

Note: §7135 has moved to §7395.

Subpart 3. Louisiana Sewage Sludge and Biosolids Program

Chapter 73. Standards for the Use or Disposal of Sewage Sludge and Biosolids [Formerly Chapter 69]

Subchapter A. Program Requirements

§7301. General Provisions [Formerly §6901]

A. Purpose and Applicability

1. Purpose

a. This Chapter establishes standards for the use or disposal of sewage sludge generated during the treatment of domestic sewage in a treatment works and of domestic septage (hereafter referred to collectively as *sewage sludge* for the purposes of this Chapter), biosolids, and grease that was pumped or removed from a food service facility and mixed with sewage sludge.

b. The standards established in this Chapter include:

i. general requirements and other requirements for bulk biosolids, general management practices and other management practices for bulk biosolids, pollutant limits, pathogen and vector attraction reduction requirements, and optional standards;

ii. sampling and monitoring requirements, recordkeeping and reporting requirements, specific exclusions, and prohibitions and restrictions regarding the use and disposal of sewage sludge and biosolids; and

iii. the siting, operation, and financial assurance requirements for commercial preparers of sewage sludge or land appliers of biosolids.

c. This Chapter establishes requirements for the person who prepares sewage sludge that is disposed in a landfill.

d. In addition, this Chapter contains specific prohibitions and restrictions regarding the use and disposal of sewage sludge and biosolids.

2. Applicability

a. This Chapter applies to any person who:

i. prepares sewage sludge or biosolids, including the dewatering and solidification of sewage sludge;

ii. applies biosolids to the land;

iii. prepares sewage sludge, including the dewatering and solidification of sewage sludge, that is disposed in a landfill;

iv. owns/operates a surface disposal site; and

v. owns/operates a sewage sludge incinerator.

b. This Chapter also applies to:

i. biosolids that are applied to the land and sewage sludge that is disposed at a surface disposal site or at a landfill;

ii. sewage sludge fired in a sewage sludge incinerator, a sewage sludge incinerator and the exit gas from a sewage sludge incinerator, land where biosolids are applied, and a surface disposal site; and

iii. grease that is pumped or removed from a food service facility and is mixed with sewage sludge.

B. General Definitions. The following terms used in this Chapter shall have the meanings listed below, unless the context clearly indicates otherwise, or the term is specifically redefined in a particular Section.

Administrative Authority—the Secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Air Operations Area—any area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft. *Air operations areas* include paved areas or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft, in addition to its associated runways, taxiways, or aprons.

Apply Biosolids or Biosolids Applied to the Land—land application of biosolids.

Base Flood—a flood that has a 1 percent chance of occurring in any given year (i.e., a flood with a magnitude equaled once in 100 years).

Beneficial Use—the use of biosolids for the purpose of soil conditioning or crop or vegetative fertilization in a manner that does not pose a danger of adverse effects upon human health or the environment or cause any deterioration of land surfaces, soils, surface waters, or groundwater.

Biosolids—sewage sludge, or material derived from sewage sludge, that is nonhazardous, has a PCB concentration of less than 50 mg/kg of total solids (dry weight), and is prepared to meet one of the pollutant requirements of LAC 33:IX.7303.E, one of the pathogen requirements in LAC 33:IX.7309.C, and one of the vector attraction reduction requirements in LAC 33:IX.7309.D.

Bulk Biosolids—biosolids that are not sold or given away in a bag or other container for application to the land.

Class B Biosolids—biosolids that do not meet one or more of the following requirements:

a. the pollutant concentrations in Table 3 of LAC 33:IX.7303.E;

b. the pathogen requirements in LAC 33:IX.7309.C.1;

c. one of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-e; and/or

d. a PCB concentration of less than 10 mg/kg of total solids (dry weight basis).

Class I Sludge Management Facility—for the purposes of this Chapter:

a. any *publicly owned treatment works (POTW)* or *privately owned sanitary wastewater treatment facility (POSWTF)*, as defined in this Subsection, regardless of its ownership, that is used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage;

b. any person who prepares sewage sludge or biosolids, including a commercial preparer of sewage sludge and pumper of sewage sludge who prepares sewage sludge or biosolids;

c. an owner/operator of a sewage sludge incinerator; and

d. an applier of biosolids to the land, including a commercial land applier of biosolids.

Commercial Preparer of Sewage Sludge—any person who prepares sewage sludge for monetary profit or other financial consideration and either the person is not the generator of the sewage sludge or the sewage sludge was obtained from a facility or facilities not owned by or associated with the applier.

Commercial Land Applier of Biosolids—any person who applies biosolids to the land for monetary profit or other financial consideration and the biosolids were obtained from a facility or facilities not owned by or associated with the person.

Container—any stationary or portable device in which sewage sludge or biosolids are stored or transported.

Contaminate an Aquifer—to introduce a substance that causes the maximum contaminant level for nitrate in 40 CFR 141.62(b) to be exceeded in the groundwater, or that causes the existing concentration of nitrate in groundwater to increase when the existing concentration exceeds the maximum contaminant level for nitrate in 40 CFR 141.62(b).

Cover Crop—a small grain crop, such as oats, wheat, or barley, not grown for harvest.

Domestic Septage—liquid or solid material removed from a septic tank, holding tank or similar device, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage. *Domestic septage* does not include liquid or solid material removed from a septic tank, holding tank or similar device, cesspool, or similar treatment works that receives either commercial wastewater or industrial wastewater, and does not include grease removed from a grease trap at a *food service facility*, as defined in this Subsection.

Domestic Sewage—waste and wastewater from humans or household operations that is discharged to or otherwise enters a treatment works.

Dry Weight Basis—calculated on the basis of having been dried at 105°C until reaching a constant mass (i.e., essentially 100 percent solids content).

Exceptional Quality Biosolids—biosolids that are nonhazardous and meet the ceiling concentrations in Table 1 of LAC 33:IX.7303.E, the pollutant concentrations in Table 3 of LAC 33:IX.7303.E, the pathogen requirements in LAC 33:IX.7309.C.1, and one of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-e, and that have a PCB concentration of less than 10 mg/kg of total solids (dry weight).

Feed Crop—a crop produced primarily for consumption by animals.

Feedstock—primarily biologically decomposable organic material that is blended, mixed, or composted with sewage sludge.

Fiber Crops—crops such as flax and cotton.

Food Crops—crops consumed by humans. These include, but are not limited to, fruits, vegetables, and tobacco.

Food Service Facility—any facility that prepares and/or packages food or beverages for sale or consumption, on- or off-site, with the exception of private residences. *Food*

service facilities include, but are not limited to, food courts, food manufacturers, food packagers, restaurants, grocery stores, bakeries, lounges, hospitals, hotels, nursing homes, churches, schools, and other similar facilities.

Free Air Space, n—air-filled pore volume of an as-received compost material. Express *free air space* as a percentage, volume of *free air space* per unit volume of compost (% v v, ±0.1 %).

Grease—a material, either liquid or solid, composed primarily of fat, oil, or grease from animal or vegetable sources. The terms *fats, oils, and grease; oil and grease; and oil and grease substances* shall all be included within this definition.

Groundwater—water below the land surface in the saturated zone.

Industrial Park—an area that is legally zoned for the purpose of the construction and operation of a group of industries and businesses and entered as legally zoned for such purpose in the public records of the state, parish, city, town, or community where the park is located.

Industrial Wastewater—wastewater generated in a commercial or industrial process.

Institution—the building or buildings that are utilized to house an established organization or foundation, especially one dedicated to public service or to culture. An *institution* includes, but is not limited to, an established school, hospital, business, day-care facility, nursing home, hotel/motel, playground, park, golf course, place of worship, or restaurant/food establishment.

Land Application—the beneficial use of biosolids by either spraying or spreading onto the land surface, injection below the land surface, or incorporation into the soil.

Material Derived from Sewage Sludge—biosolids that are produced when sewage sludge is prepared with other solid waste materials, feedstocks, supplements, and industrial sludges that are approved to be prepared with sewage sludge under these regulations.

Other Container—an open or closed receptacle, including, but not limited to, a bucket, a box, a carton, and a vehicle or trailer with a load capacity of one metric ton or less.

Permitting Authority—EPA or a state with an EPA-approved sludge management program.

Person Who Prepares Sewage Sludge—the person who generates sewage sludge during the treatment of domestic sewage in a treatment works, the person who treats sewage sludge, or the person who derives a material from sewage sludge.

Pollutant—an organic substance, an inorganic substance, a combination of organic and inorganic substances, or a pathogenic organism that, after discharge and upon exposure, ingestion, inhalation, or assimilation into an organism either directly from the environment or indirectly by ingestion through the food chain, could, on the basis of information available to the administrative authority, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunction in reproduction), or physical deformations in either the affected organism or offspring of the organism.

Pollutant Limit—a numerical value that describes the amount of a pollutant allowed per unit amount of sewage sludge (e.g., milligrams per kilogram of total solids); the

amount of a pollutant that can be applied to a unit area of land (e.g., kilograms per hectare); or the volume of a material that can be applied to a unit area of land (e.g., gallons per acre).

Private Land Applier—anyone who applies biosolids to the land for private benefit purposes, where the land application is not for monetary profit or other financial consideration, and either the applier did not generate or prepare the sewage sludge or material derived from sewage sludge, or the facility or facilities from which the biosolids were obtained are not owned by or associated with the *private land applier*.

Privately Owned Sanitary Wastewater Treatment Facility (POSWTF)—a privately owned treatment works that is utilized to treat sanitary wastewater and is not a *publicly owned treatment works (POTW)*, as defined in this Subsection.

Publicly Owned Treatment Works (POTW)—a *treatment works*, as defined by Section 212 of the Clean Water Act, that is owned by a *state* or *municipality*, as defined by Section 502(3) and (4) of the Clean Water Act. This includes all devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW; and the *municipality*, as defined by Section 502(4) of the Clean Water Act, that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

Pumper of Sewage Sludge—a person who removes sludge from a sanitary wastewater treatment facility; domestic septage from a residential septic tank, mechanical treatment plant, or dump station for recreational vehicles and watercrafts or vessels; residuals from a portable toilet; or grease from a food service facility that is mixed with sewage sludge.

Qualified Groundwater Scientist—an individual with a baccalaureate or post-graduate degree in the natural sciences or engineering, who has sufficient training and experience in groundwater hydrology, subsurface geology, and/or a related field, as may be demonstrated by state registration, professional certification, or completion of accredited university programs, to make sound professional judgments regarding groundwater monitoring, pollutant fate and transport, and corrective action.

Responsible Official—a person who meets any of the following criteria:

a. for a corporation—a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities;

b. for a partnership or sole proprietorship—a general partner or the proprietor, respectively; or

c. for a municipality or a state, federal, or other public agency—either a principal executive officer or ranking elected official. For the purposes of this Subpart, a principal executive officer of a federal agency includes the

chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

Runoff—rainwater, leachate, or other liquid that drains overland on any part of a land surface and runs off of the land surface.

Sewage Sludge—any solid, semisolid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. *Sewage sludge* includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum, domestic septage, portable toilet pumpings, type III marine sanitation device pumpings (33 CFR Part 159), and sewage sludge products. *Sewage sludge* does not include grit or screenings, or ash generated during the incineration of sewage sludge.

Sludge-Only Facility—any facility whose methods of sewage sludge use or disposal are subject to regulations promulgated in accordance with Section 405(d) of the Clean Water Act, and that is required to obtain a permit under Subsection D of this Section.

Storage Facility—an area of land or constructed facility committed to hold sewage sludge or biosolids until the material may be used or disposed at on- or off-site locations.

Storage of Sewage Sludge or Biosolids—the temporary placement of sewage sludge or biosolids in a container, storage facility, tank, or directly on the land. *Storage of sewage sludge or biosolids* does not pertain to a container or tank that is utilized for the *treatment of sewage sludge*, as defined in this Subsection.

Supplements—materials blended, composted, or mixed with sewage sludge or other feedstock and sewage sludge in order to raise the moisture level and/or adjust the carbon-to-nitrogen ratio, and materials added during composting or to compost to provide attributes required by customers for certain compost products.

Surface Disposal—a use or disposal of sewage sludge on the land that does not meet the criteria of *land application*, as defined in this Subsection.

Tank—a stationary device designed to contain an accumulation of sewage sludge or biosolids that is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic), which provide structural support.

Treatment of Sewage Sludge—the preparation of sewage sludge for final use or disposal. This includes, but is not limited to, blending, mixing, composting, thickening, stabilization, and dewatering and solidification of sewage sludge. This does not include storage of sewage sludge.

Treatment Works—a federally owned, publicly owned, or privately owned device or system used to treat (including recycle and reclaim) either domestic sewage or a combination of domestic sewage and industrial waste of a liquid nature.

TSCA—Toxic Substances Control Act.

C. Compliance Period

1. Compliance with Standards. Except as otherwise specified in this Chapter and in Paragraph C.3 of this Section, compliance with the standards in this Chapter shall be achieved as expeditiously as practicable, but in no case later than February 19, 1994. When compliance with the standards requires construction of new pollution control facilities, compliance with the standards shall be achieved as expeditiously as practicable, but in no case later than February 19, 1995.

2. Frequency of Monitoring, Recordkeeping, and Reporting. The requirements for frequency of monitoring, recordkeeping, and reporting in this Chapter for total hydrocarbons in the exit gas from a sewage sludge incinerator are effective February 19, 1994, or if compliance with the operational standard for total hydrocarbons in this Chapter requires the construction of new pollution control facilities, February 19, 1995. All other requirements for frequency of monitoring, recordkeeping, and reporting in this Chapter are effective on July 20, 1993.

3. Compliance with Requirements

a. Unless otherwise specified in LAC 33:IX.7311, compliance with the requirements in LAC 33:IX.7311.B, beginning with the definition of *average daily concentration* through the definition of *wet scrubber*, LAC 33:IX.7311.D.3, 4, and 5, F.5, 6, 7, 8.d, and 10, G.1.a and c, G.3, and H.2.e shall be achieved as expeditiously as practicable, but in no case later than September 5, 2000. When new pollution control facilities must be constructed to comply with the revised requirements in LAC 33:IX.7311, compliance with the revised requirements shall be achieved as expeditiously as practicable, but no later than September 4, 2001.

b. Compliance with the requirements in Paragraphs G.2, 3, and 4 of this Section shall be achieved as follows.

i. A facility presently meeting all of the requirements for surface disposal in 40 CFR 503, Subpart C, must comply with the requirements in Paragraph G.2 of this Section as expeditiously as practicable, but in no case later than September 1, 2007.

ii. A facility that does not meet all of the requirements for surface disposal in 40 CFR 503, Subpart C, must comply with the requirements in Paragraph G.2 of this Section by December 30, 2005.

iii. All facilities must comply with the requirements in Paragraphs G.3 and 4 of this Section as expeditiously as practicable, but in no case later than September 1, 2007.

D. Permits and Permitting Requirements

1. Except as exempted in Paragraph D.2 of this Section, no person shall prepare sewage sludge or biosolids, prepare sewage sludge and dispose of the prepared sewage sludge in a permitted landfill, apply biosolids to the land, or own or operate a sewage sludge incinerator without first obtaining a permit in accordance with the deadlines set forth in Subparagraphs D.1.a-c of this Section. The permit shall identify and regulate the specific use, disposal, storage, and treatment of sewage sludge described in the permit application.

a. As of December 30, 2005, the following permitting requirements apply.

i. Those persons who have been granted an exemption under LAC 33:Part VII for any form of use or disposal of sewage sludge will have 180 days to submit an application for permit coverage under these regulations.

ii. Those persons who have been issued a standard solid waste permit under LAC 33:Part VII for the use, disposal, treatment, or processing of sewage sludge, with the exception of a standard solid waste permit issued for a type of *surface disposal*, as defined in Subsection B of this Section, may continue operations under the standard solid waste permit until such time as a permit has been reissued

under these regulations by the administrative authority or for a period not to exceed five years, whichever is less. This time period may be reduced by the administrative authority if deemed necessary for the protection of human health and/or the environment.

iii. Those persons who have been issued a standard solid waste permit for a type of *surface disposal*, as defined in Subsection B of this Section, shall comply with the requirements in Subparagraph C.3.b of this Section.

b. As of June 1, 2006, facilities not addressed under Subparagraph D.1.a of this Section shall apply for a permit as follows.

i. All sanitary wastewater treatment facilities that receive domestic septage and/or portable toilet waste into their systems shall apply for a permit within 180 days of June 1, 2006.

ii. All treatment facilities that are for the sole purpose of preparing sewage sludge or sewage sludge mixed with grease that is pumped or removed from a food service facility shall apply for a permit within 180 days of June 1, 2006.

iii. All treatment facilities that prepare sewage sludge for land application, and all land appliers of biosolids who are not presently operating under an effective standard solid waste permit, shall apply for a permit within 180 days of June 1, 2006.

iv. All major sanitary wastewater treatment facilities that do not receive domestic septage and/or portable toilet waste into their systems shall apply for a permit as expeditiously as practicable, but in no case later than three years from June 1, 2006.

v. All minor sanitary wastewater treatment facilities that do not receive domestic septage and/or portable toilet waste into their systems shall apply for a permit as expeditiously as practicable, but in no case later than five years from June 1, 2006.

c. At least 180 days prior to the expiration of the permit described in Clause D.1.b.ii of this Section, the owner/operator of the facility shall submit an application for permit issuance under this Chapter if the owner/operator intends to continue operations after that date.

d. A person who prepares sewage sludge or land-applies biosolids shall use the Sewage Sludge and Biosolids Use or Disposal Permit application form. The owner/operator of a sewage sludge incinerator shall apply for a permit in accordance with LAC 33:III.Chapter 5 and shall utilize both the Air Quality Permit Application and the Sewage Sludge and Biosolids Use or Disposal Permit application forms. The forms can be accessed through the department's website or by contacting the Office of Environmental Services.

e. Except as allowed in this Paragraph, all permits issued in accordance with these regulations shall be effective for a period not to exceed five years. The standard five-year permit period may be reduced to a period of less than five years if deemed necessary by the administrative authority for the protection of human health and/or the environment.

2. Exempt Status for Those Applying Biosolids to the Land

a. A person who applies bagged *biosolids*, as defined in Subsection B of this Section, to the land shall be exempted from obtaining a permit.

b. A person who applies bulk biosolids to the land, if the biosolids were obtained from a facility that is permitted to treat sewage sludge to an Exceptional Quality biosolids level, shall be exempted from obtaining a permit.

c. The administrative authority may exempt any other person who applies biosolids to the land from the requirement of obtaining a permit, on a case-by-case basis, after determining that human health and the environment will not be adversely affected by the application of biosolids to the land.

3. A person who prepares sewage sludge, a person who applies biosolids to the land, and the owner and/or operator of a sewage sludge incinerator who desires to maintain a permit shall obtain adequate training and certification in the processing, treatment, land application, and incineration of sewage sludge.

a. To maintain certification, a minimum of 16 contact hours of continuous education are required for each certificate held during the previous two-year certification period.

b. Classes, seminars, conferences, or conventions used for units shall be approved by the administrative authority.

4. Closure requirements for sanitary wastewater treatment facilities that were utilized for the preparation of sewage sludge, and sewage sludge disposal ponds/lagoons complying with the requirements of Subparagraph C.3.b of this Section, are as follows.

a. In closing a facility that was utilized for sanitary wastewater treatment or for the disposal of sewage sludge, the liquid portion must be removed in a manner that meets the requirements of LAC 33:IX.Chapters 23-71.

b. The use or disposal options for the closure of a facility that was utilized for the treatment of sanitary wastewater or the disposal of sewage sludge shall consist of:

i. removal and disposal of the remaining biosolids in a permitted landfill;

ii. obtaining an Exceptional Quality biosolids certification without further soil or site restrictions for the material; or

iii. obtaining approval for land application of the material as Class B biosolids with soil or site restrictions.

c. For removal and disposal in a permitted landfill, a closure plan shall be submitted to the Office of Environmental Services prior to site closure. The closure plan shall include, but not be limited to, the following information:

i. the name, mailing address, physical address, and contact person of the facility that is proposed for closure;

ii. an aerial photograph showing the location of the facility that is proposed for closure;

iii. the amount of sewage sludge that will be removed and disposed at a permitted landfill;

iv. the name, location, and contact person at the site where the sewage sludge will be disposed; and

v. a sampling and analysis plan for the sewage sludge, which shall include:

(a) either a schematic drawing or an aerial photograph that indicates where the samples will be taken;

(b) the lab methods to be utilized;

(c). the name of the laboratory where the samples will be analyzed; and

(d). any other information the department may require.

d. Approval or disapproval of the closure plan required in Subparagraph D.4.c of this Section shall be granted by the administrative authority after receipt and review of the plan.

e. For an Exceptional Quality biosolids certification without further soil or site restrictions, a request shall be submitted to the Office of Environmental Services. The request shall include, but not be limited to, the following information.

i. A sampling and analysis plan shall be submitted to the administrative authority in accordance with Subsection I of this Section. The sewage sludge shall be sampled and analyzed in a laboratory that is certified by the state of Louisiana. The minimum sampling and analysis requirements are as follows:

(a). toxicity characteristic leaching procedure (TCLP)—one composite sample;

(b). pollutants listed in Table 1 of LAC 33:IX.7303.E—at least four separate, random, representative samples of pollutants listed in the table;

(c). pathogens—

(i). the sewage sludge shall be sampled and analyzed in accordance with the requirements in Subsection I of this Section;

(ii). results of the analysis must indicate that fecal coliform levels are 1,000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp.* bacteria in the sewage sludge shall be less than 3 Most Probable Number per 4 grams of total solids (dry weight basis);

(iii). if the reduction of pathogens is a necessity, it shall be achieved by utilizing either Exceptional Quality Biosolids—Alternative 2, as described in LAC 33:IX.7309.C.1.d, Exceptional Quality Biosolids—Alternative 3, as described in LAC 33:IX.7309.C.1.e, Exceptional Quality Biosolids—Alternative 4, as described in LAC 33:IX.7309.C.1.f, or Exceptional Quality Biosolids—Alternative 5, as described in LAC 33:IX.7309.C.1.g;

(iv). for analysis of fecal coliform or *Salmonella sp.*, a minimum of four separate, random, representative samples shall be utilized. The geometric mean of the separate samples collected and analyzed must be reported. The samples must be analyzed by using Part 9221 E of “Standard Methods for the Examination of Water & Wastewater” for fecal coliform and Part 9260 of “Standard Methods for the Examination of Water and Wastewater” for *Salmonella sp.*;

(d). vector attraction reduction—first, utilize the procedure described in LAC 33:IX.7309.D.2.d or e.ii. Proof of vector attraction reduction shall then be made by the collection and analysis of four separate, random, representative samples for the indicator parameter of the selected procedure (i.e., pH or Percent Solids). If specific sampling and analysis methods are listed in Subsection I of this Section for vector attraction reduction, then the methods listed must be used for the determination of vector attraction reduction;

(e). PCBs—one composite sample; and

(f). total nitrogen, total nitrates, total phosphorus, total potassium, and pH—one composite sample from four or more separate samples collected from the treatment facility or from each cell of an oxidation pond, lagoon, or surface impoundment.

ii. Results of the analyzed samples, along with QA/QC documentation, must be submitted to the administrative authority, along with the following additional information:

(a). the name of the facility that utilized the treatment facility;

(b). the LPDES (sanitary wastewater discharge) permit number for the treatment facility;

(c). the design capacity of the treatment facility (If the facility was an oxidation pond, include the size of the pond (in acres) and the number of cells of the pond, e.g., 1-cell, 2-cell, or 3-cell.);

(d). the approximate tons of sewage sludge to be disposed;

(e). the location of the facility, delineated on an aerial photograph;

(f). the future plans for the site where the treatment plant is located;

(g). the demographics within the area of the facility (businesses, hospitals, nursing homes, day-care centers, schools, walk-in clinics, etc.);

(h). potable water wells within a 1-mile radius of the facility, including private and public potable water wells, designated on an aerial photograph; and

(i). the name of the drinking water aquifer.

iii. After receipt and review of the results of the laboratory analysis and the additional information required in Clause D.4.e.ii of this Section, a decision shall be rendered by the administrative authority regarding Exceptional Quality biosolids certification.

f. For closure through land application of the sewage sludge as Class B biosolids, a Sewage Sludge and Biosolids Use or Disposal Permit application form must be submitted to the Office of Environmental Services utilizing the application form that can be accessed on the department's website or by contacting the Office of Environmental Services.

5. Environmental Impact Supplementary Information. In addition to the requirements of this Chapter, all Sewage Sludge and Biosolids Use or Disposal Permit application forms must include a response to each of the following:

a. a detailed discussion demonstrating that the potential and real adverse environmental effects of the proposed facility have been avoided to the maximum extent possible;

b. a cost-benefit analysis that balances the environmental impact costs against the social and economic benefits of the facility and demonstrates that the latter outweigh the former;

c. a discussion and description of possible alternative projects that would offer more protection to the environment than the proposed facility without unduly curtailing non-environmental benefits;

d. a detailed discussion of possible alternative sites that would offer more protection to the environment than the

proposed facility site without unduly curtailing non-environmental benefits; and

e. a discussion and description of mitigating measures that would offer more protection to the environment than the facility as proposed without unduly curtailing non-environmental benefits.

E. Sewage Sludge Disposed in a Landfill

1. A landfill where sewage sludge is disposed must possess a legal and effective permit.

2. A person who disposes of sewage sludge in a landfill shall provide the necessary information to the owner/operator of the landfill where the sewage sludge is to be disposed to assure that the landfill will be in compliance with its permit requirements.

3. The person who prepares sewage sludge that is disposed in a landfill shall provide the following to the Office of Environmental Services on an annual basis, or at a frequency designated in the permit:

a. proof that the sewage sludge is being disposed at an approved landfill, by furnishing the name, address, and permit number of the landfill; and

b. copies of all records of sampling and laboratory analyses of the sewage sludge for hazardous characteristics or the presence of PCBs, of the results of the Liquid Paint Filter Test (if required in the permit), and of any other analysis required by the owner/operator of the landfill.

F. Reserved.

G. Prohibitions, Restrictions, and Additional or More Stringent Requirements

1. Use or Disposal of Sewage Sludge

a. No person shall use or dispose of sewage sludge or biosolids through any practice for which requirements have not been established in this Chapter.

b. No person shall use or dispose of sewage sludge or biosolids except in accordance with the requirements in this Chapter.

2. Surface Disposal Prohibited. *Surface disposal*, as defined in Subsection B of this Section, is prohibited as a use or disposal method of sewage sludge or biosolids.

3. Storage of Sewage Sludge or Biosolids

a. Except as allowed in Subparagraph G.3.b of this Section, the *storage of sewage sludge or biosolids*, as defined in Subsection B of this Section, is allowed for a period not to exceed six consecutive months when:

i. it is necessary for the upgrade, repair, or maintenance of a treatment works or sludge-only facility, or for agricultural storage purposes when the sewage sludge or biosolids are to be used for *beneficial use*, as defined in Subsection B of this Section;

ii. notification has been made by the person who wishes to store the sewage sludge or biosolids to the administrative authority; and

iii. subsequent approval by the administrative authority has been received.

b. An extension for storage for greater than six months may be granted by the administrative authority if storage for the extended period will have no adverse affect on human health or the environment.

c. A request for an extension for storage for greater than six months must be submitted in writing to the Office of Environmental Services at least 60 days prior to the

expiration of the first six-month storage period and shall include, but not be limited to, the following information:

i. the name and address of the person who prepared the sewage sludge or biosolids;

ii. the name and address of the person who either owns or leases the land where the sewage sludge or biosolids are to be stored, if different from the person who prepared the sewage sludge;

iii. the location, by either street address or latitude and longitude, of the land;

iv. an explanation of why the sewage sludge or biosolids need to remain on the land;

v. an explanation of why human health and the environment will not be affected;

vi. the approximate date and length of time the sewage sludge or biosolids will be stored on the land; and

vii. the final use and disposal method after the storage period has expired.

d. The administrative authority shall make a determination as to whether or not the information submitted is complete and shall issue the determination within 30 days of having received the request.

i. If the information is deemed incomplete, the administrative authority shall issue a notice of deficiency. The commercial preparer or land applier of sewage sludge shall have 45 days, thereafter, to respond to the notice of deficiency.

ii. If the information is deemed complete, the administrative authority shall make and issue a determination to grant or deny the request for the storage of sewage sludge within 30 days after deeming the information complete.

4. Use of Ponds or Lagoons to Treat Sewage Sludge

a. The use of a pond or lagoon is allowed for the *treatment of sewage sludge*, as defined in Subsection B of this Section, only after a permit has been granted under these regulations and the applicable air and water discharge permits have been applied for and granted by the administrative authority.

b. The person who makes use of a pond or lagoon for the treatment of sewage sludge shall:

i. provide documentation to the Office of Environmental Services that indicates the final use or disposal method for the sewage sludge;

ii. apply for the appropriate permit for the chosen final use or disposal in accordance with this Chapter; and

iii. provide documentation by a qualified groundwater scientist to the Office of Environmental Services that indicates the area where the pond or lagoon is located and if it will adequately protect against potential groundwater contamination either by natural soil conditions or by a constructed soil or synthetic liner that has a hydraulic conductivity of 1×10^{-7} centimeters per second or less, and adequately protect from the potential to *contaminate an aquifer*, as defined in Subsection B of this Section.

5. Solid wastes other than those listed below are prohibited from being prepared with sewage sludge and must be disposed of in the manner provided in LAC 33:VII.Subpart 1:

a. residential and commercial food waste;

b. twigs, branches, leaves, crushed or chipped wood, logs, or trees;

- c. wood chips or sawdust;
 - d. ground or crushed cardboard boxes;
 - e. paper;
 - f. flyash, kiln dust, or other solid waste material that has been approved by the Environmental Protection Agency for the alkaline treatment/stabilization of sewage sludge; and
 - g. industrial sludges that are shown to contain only the pollutants that are listed in Table 1 of LAC 33:IX.7303.E and are demonstrated to be of benefit to the soil and/or crops through soil conditioning and/or crop fertilization, or are utilized as a form of alkaline treatment/stabilization of the sewage sludge.
6. Materials prohibited from being prepared with sewage sludge are as follows:
- a. hazardous waste;
 - b. materials listed in Table 1 of LAC 33:IX.7301.G; and
 - c. other material whose use has a potential to adversely affect human health or the environment, as determined by the administrative authority.

Table 1 of LAC 33:IX.7301.G	
Materials Prohibited from Preparation with Sewage Sludge	
Antifreeze	Pesticides
Automotive (lead-acid) batteries	Photographic supplies
Brake fluid	Propane cylinders
Cleaners (drain, oven, toilet)	Treated wood containing the preservatives CCA and/or PCP
Gasoline and gasoline cans	Tubes and buckets of adhesives, caulking, etc.
Herbicides	Swimming pool chemicals
Household (dry cell) batteries	Unmarked containers
Oil-based paint	Used motor oil

7. A material prepared with sewage sludge must be sampled and analyzed on an annual basis to determine if the material is nonhazardous by a hazardous waste determination in accordance with LAC 33:Part V. Results of the sampling and analysis must be submitted to the administrative authority on an annual basis.
8. Sewage sludge composting operations shall not be located on airport property unless an exemption or approval is granted by the U.S. Department of Transportation's Federal Aviation Administration. If an exemption or approval is granted by the U. S. Department of Transportation's Federal Aviation Administration to allow a sewage sludge composting operation to be located on airport property, the location restrictions in LAC 33:IX.7305.B.1.h and i for off-airport property operations shall apply.
9. The use of raw or untreated sewage sludge as daily, interim, or final cover at a municipal solid waste landfill is prohibited. The use of treated sewage sludge as daily, interim, or final cover at a municipal solid waste landfill is allowed only if the sewage sludge meets the requirements and is used in accordance with the requirements in LAC 33:IX.7303.
10. Except as exempted in LAC 33:IX.7303.M, sewage sludge mixed with grease shall be disposed of in a permitted landfill and shall not be:
- a. introduced into any part of a treatment works, including its collection system; or
 - b. applied to the land.

11. On a case-by-case basis, the permitting authority may impose requirements in addition to or more stringent than the requirements in this Chapter when necessary to protect human health and the environment from any adverse effect of a pollutant in the sewage sludge.

H. Exclusions

1. Co-Firing of Sewage Sludge

- a. Except for the co-firing of sewage sludge with *auxiliary fuel*, as defined in LAC 33:IX.7311.B, this Chapter does not establish requirements for sewage sludge co-fired in an incinerator with other wastes or for the incinerator in which sewage sludge and other wastes are co-fired.
- b. This Chapter does not establish requirements for sewage sludge co-fired with auxiliary fuel if the auxiliary fuel exceeds 30 percent of the dry weight of the sewage sludge and auxiliary fuel mixture.

2. Sludge Generated at an Industrial Facility. This Chapter does not establish requirements for the use or disposal of sludge generated at an industrial facility during the treatment of industrial wastewater, including sewage sludge generated during the treatment of industrial wastewater combined with domestic sewage.

3. Hazardous Sewage Sludge. This Chapter does not establish requirements for the use or disposal of sewage sludge or a material derived from sewage sludge that is hazardous in accordance with LAC 33:Part V.

4. Sewage Sludge Containing PCBs. This Chapter does not establish requirements for the use or disposal of sewage sludge containing polychlorinated biphenyls (PCBs) that are regulated by the TSCA.

5. Incinerator Ash. This Chapter does not establish requirements for the use or disposal of ash generated during the firing of sewage sludge in a sewage sludge incinerator.

6. Grit and Screenings. This Chapter does not establish requirements for the use or disposal of grit (e.g., sand, gravel, cinders, or other materials with a high specific gravity) or screenings (e.g., relatively large materials such as rags) generated during preliminary treatment of domestic sewage in a treatment works.

7. Drinking Water Treatment Sludge. This Chapter does not establish requirements for the use or disposal of sludge generated during the treatment of either surface water or groundwater used for drinking water.

8. Treatment Processes. This Chapter does not establish requirements for processes used to treat *domestic sewage*, as defined in Subsection B of this Section. This Chapter establishes requirements regarding processes used to treat sewage sludge.

9. Selection of a Use or Disposal Practice. This Chapter does not require the selection of a sewage sludge use or disposal practice. The determination of the manner in which sewage sludge is used or disposed is to be made by the person who prepares sewage sludge.

I. Sampling and Analysis

1. Sampling

- a. The permittee shall collect and analyze representative samples of sewage sludge or biosolids that are applied to the land and sewage sludge fired in a sewage sludge incinerator at the frequency specified in the permit.

- b. The permittee shall create and maintain records of sampling and monitoring information for the period

specified in the permit. The sampling and monitoring records shall include:

- i. the date, exact place, and time of sampling or measurements;
- ii. the individual(s) who performed the sampling or measurements;
- iii. the date(s) analyses were performed;
- iv. the individual(s) who performed the analysis;
- v. the analytical techniques or methods used; and
- vi. the results of such analysis.

2. Methods. The materials listed below are incorporated by reference in this Chapter. The materials are incorporated as they exist on the date of approval, and notice of any change in these materials will be published in the *Louisiana Register*. They are available for inspection at the Office of the Federal Register, 7th Floor, Suite 700, 800 North Capitol Street, NW, Washington, DC, and at the Office of Water Docket, Room L-102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC. Copies may be obtained from the standard producer or publisher listed in the regulation. Information regarding other sources of these documents is available from the Department of Environmental Quality, Office of Environmental Services. Methods in the materials listed below (or in 40 CFR Part 136) shall be used to analyze samples of sewage sludge.

a. Enteric Viruses. ASTM Designation: D 4994-89, "Standard Practice for Recovery of Viruses From Wastewater Sludges," 1992 Annual Book of ASTM Standards: Section 11—Water and Environmental Technology, ASTM, 1916 Race Street, Philadelphia, PA 19103-1187.

b. Fecal Coliform. Part 9221 E, "Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005; or EPA Method 1680 (<http://www.epa.gov/waterscience/methods/biosolids/EPA.Method.1680.July2006.pdf>) for *Exceptional Quality biosolids* and Part 9221 E or Part 9222 D "Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005; or EPA Method 1680 or 1681 (<http://www.epa.gov/waterscience/methods/biosolids/EPA.Method.1681.July2006.pdf>) for *Class B Biosolids*.

c. Helminth Ova. Yanko, W.A., "Occurrence of Pathogens in Distribution and Marketing Municipal Sludges," EPA 600/1-87-014, 1987. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (PB 88-154273/AS).

d. Inorganic Pollutants. *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, Second Edition (1982) with Updates I (April 1984) and II (April 1985) and Third Edition (November 1986) with Revision I (December 1987). Second Edition with Updates I and II are available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (PB-87-120-291). Third Edition with Revision I are available from Superintendent of Documents, Government Printing Office, 941 North Capitol Street, NE, Washington, DC 20002 (Document Number 955-001-00000-1).

e. *Salmonella sp.* Bacteria. Part 9260 D, "Standard Methods for the Examination of Water and Wastewater,"

18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005; or EPA Method 1682 (<http://www.epa.gov/waterscience/methods/biosolids/EPA.Method.1682.July2006.pdf>); or Kenner, B.A. and H.P. Clark, "Detection and Enumeration of Salmonella and Pseudomonas Aeruginosa," *Journal of the Water Pollution Control Federation*, Vol. 46, No. 9, September 1974, pp. 2163-2171. Water Environment Federation, 601 Wythe Street, Alexandria, VA 22314.

f. Specific Oxygen Uptake Rate. Part 2710, B. Standard Methods for the Examination of Water and Wastewater, 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005.

g. Total, Fixed, and Volatile Solids. Part 2540, G. Standard Methods for the Examination of Water and Wastewater, 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005.

h. Incineration of Sewage Sludge—Standards of Performance and Particulate Matter. Materials and Methods at 40 CFR Part 60 as incorporated by reference at LAC 33:III.3003.

i. Incineration of Sewage Sludge—National Emission Standards for Beryllium and for Mercury. Materials, Methods, and Standards at 40 CFR Part 61 as incorporated by reference at LAC 33:III.5116.

j. Composting of Sewage Sludge. *Test Methods for the Examination of Composting and Compost*, The US Composting Council Research and Education Foundation and USDA, TMECC Website: <http://tmecc.org/tmecc/index.html>.

k. Nutrients—*Methods of Soil Analysis*, Soil Science Society of America Series (Most Recent Editions).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§7303. Land Application [Formerly §6903]

A. Applicability

1. This Section applies to:
 - a. any person who prepares sewage sludge or biosolids that are applied to the land;
 - b. any person who applies biosolids to the land;
 - c. sewage sludge or biosolids that are applied to the land; and
 - d. the land on which sewage sludge or biosolids are applied.

2. The general requirements in Subsection C of this Section, the other requirements for bulk biosolids in Subsection F of this Section, the general management practices in Subsection D of this Section, and the other management practices for bulk biosolids in Subsection G of this Section do not apply when bulk *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B, are applied to the land and the preparer has received and maintained a permit to prepare sewage sludge as Exceptional Quality biosolids in accordance with requirements in Subsection L of this Section.

3. The administrative authority may apply any or all of the general requirements in Subsection C of this Section, the other requirements for bulk biosolids in Subsection F of this Section, the general management practices in Subsection D of this Section, and the other management practices for

bulk biosolids in Subsection G of this Section to the bulk biosolids in Paragraph A.2 of this Section on a case-by-case basis after determining that any or all of the requirements or management practices are needed to protect human health and the environment from any reasonably anticipated adverse effect that may occur from the application of the bulk biosolids to the land.

4. The general requirements in Subsection C of this Section and the general management practices in Subsection D of this Section do not apply if the biosolids sold or given away in a bag or other container are *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B, and the preparer has received and maintained a permit to prepare sewage sludge as Exceptional Quality biosolids in accordance with the requirements in Subsection L of this Section.

5. The administrative authority may apply any or all of the general requirements in Subsection C of this Section and the general management practices in Subsection D of this Section to the biosolids in Paragraph A.4 of this Section on a case-by-case basis after determining that the requirements or the management practices are needed to protect human health and the environment from any reasonably anticipated adverse effect that may occur from the application of the biosolids to the land.

B. Special Definitions

Agricultural Land—land on which a food crop, a feed crop, or a fiber crop is grown. This includes range land and land used as pasture.

Agronomic Rate—

a. the whole biosolids application rate (dry weight basis) designed:

i. to provide the amount of nitrogen needed by the food crop, feed crop, fiber crop, cover crop, or vegetation grown on the land; and

ii. to minimize the amount of nitrogen in the biosolids that are not utilized by the crop or vegetation grown on the land and either passes below the root zone to the groundwater or gets into surface waters during storm events;

b. agronomic rate may be extended to include phosphorus to application sites that are located within the drainage basin of water bodies that have been determined by the administrative authority to be impaired by phosphorus.

Annual Pollutant Loading Rate—the maximum amount of a pollutant that can be applied to a unit area of land during a 365-day period.

Annual Whole Biosolids Application Rate—the maximum amount of biosolids (dry weight basis) that can be applied to a unit area of land during a 365-day period.

Annual Whole Sludge Application Rate—repealed.

Cumulative Pollutant Loading Rate—the maximum amount of an inorganic pollutant that can be applied to an area of land.

Forest—a tract of land thick with trees and underbrush.

Monthly Average—the arithmetic mean of all measurements taken during the month.

Pasture—land on which animals feed directly on feed crops such as legumes, grasses, grain stubble, or stover.

Public Contact Site—land with a high potential for contact by the public. This includes, but is not limited to,

public parks, ball fields, cemeteries, plant nurseries, turf farms, and golf courses.

Range Land—open land with indigenous vegetation.

Reclamation Site—drastically disturbed land that is reclaimed using biosolids. This includes, but is not limited to, strip mines and construction sites.

C. General Requirements

1. When a person who prepares sewage sludge provides the sewage sludge to another person who prepares the sewage sludge, the person who receives the sewage sludge shall comply with the requirements in this Chapter.

2. The person who provides the sewage sludge shall provide the person who receives the sewage sludge with the following information:

a. the name, mailing address, and location of the facility or facilities of the person providing the sewage sludge;

b. the total dry metric tons being provided per 365-day period; and

c. a description of any treatment processes occurring at the providing facility or facilities, including blending, composting, or mixing activities and the treatment to reduce pathogens and/or vector attraction reduction.

3. No person shall apply biosolids to the land except in accordance with the requirements in this Chapter.

4. Biosolids shall not be applied to the land until the site has been approved by the administrative authority with a finding that the land application site is a legitimate beneficial use site.

D. General Management Practices

1. Land Application Restrictions

a. Biosolids applied to agricultural land, forest, a public contact site, or a reclamation site shall only be applied at a whole biosolids application rate that is equal to or less than the agronomic rate for the biosolids, unless, in the case of a reclamation site, otherwise specified by the permitting authority.

b. Biosolids shall be applied to the land in accordance with the slope requirements in Table 1 of LAC 33:IX.7303.D.

c. Biosolids having a concentration of PCBs equal to or greater than 10 mg/kg of total solids (dry wt.) must be incorporated into the soil regardless of slope.

2. Buffer Zones. When biosolids are applied to agricultural land, forest, or a reclamation site, buffer zones shall be established as follows for each application area, unless otherwise specified by the administrative authority.

a. For all sites, the following buffer zone requirements apply:

i. a private potable water supply well—300 feet, unless special permission is granted by the private potable water supply owner;

ii. a public potable water supply well, surface water intake, treatment plant, or public potable water supply elevated or ground storage tank—300 feet, unless special permission is granted by the Department of Health and Hospitals; and

iii. a property boundary—100 feet, unless special permission is granted by the property owner(s).

b. For new or first-time-permitted sites, the following buffer zone requirements apply:

i. an established *institution*, as defined in LAC 33:IX.7301.B—1,000 feet, unless special permission is granted by the responsible official of the established institution. The permission must be in the form of a notarized affidavit executed by the owner waiving the 1,000-foot buffer zone. However, in no case shall the application area be located less than 200 feet from an institution; and

ii. an occupied residential home or structure—500 feet, unless special permission is granted by the owner and/or lessee of the occupied residential home or structure. The permission must be in the form of a notarized affidavit executed by the owner and/or lessee waiving the 500-foot buffer zone. However, in no case shall land application of sewage sludge be conducted less than 200 feet from the occupied residential home or structure.

3. Water Table Levels. Biosolids shall not be applied to agricultural land, forest, or a reclamation site during the months when the water table is less than or at two feet below the soil surface as indicated in the Parish Soil Surveys or the Water Features Data published by the Natural Resources Conservation Service (NRCS); or some form of monitoring device shall be provided to ensure that the annual high water table is greater than two feet below the soil surface.

4. Nutrient Management Plan and Soil Sampling. The person who applies biosolids to agricultural or forest land shall:

a. provide proof to the administrative authority that a full nutrient management plan has been developed for the agricultural or forest land where the biosolids are applied. The full nutrient management plan shall be developed by the Natural Resource Conservation Service, a certified soil scientist, a certified crop advisor, or a local LSU Agricultural Center Cooperative Extension Service agent; or

b. sample the soil at the site or sites where biosolids are land-applied on an annual basis, or, if double cropping is practiced, prior to the planting of each crop, for the following parameters:

- i. total Kjeldahl nitrogen;
- ii. total nitrates;
- iii. total nitrites;
- iv. total phosphorus;
- v. total potassium; and
- vi. pH.

5. Biosolids Sold or Given Away in a Bag or Other Container

a. Biosolids sold or given away in a bag or other container shall not be applied to the land at a rate that would cause any of the annual pollutant loading rates in Table 4 of LAC 33:IX.7303.E to be exceeded.

b. The permittee shall either affix a label to the bag or other container holding biosolids that are sold or given away for application to the land, or provide an information sheet to the person who receives biosolids sold or given away in a bag or other container for application to the land. The label or information sheet shall contain the following information:

- i. the information required in Clauses L.1.f.i-viii of this Section; and
- ii. the annual whole biosolids application rate that does not cause any of the annual pollutant loading rates in Table 4 of LAC 33:IX.7303.E to be exceeded.

Table 1 of LAC 33:IX.7303.D	
Slope Limitations for Land Application of Biosolids	
Slope Percent	Application Restriction
0-3	None, except drainage to prevent standing water shall be provided.
3-6	A 100-foot vegetated runoff area should be provided at the down slope end of the application area if a liquid is applied. Measures should be taken to prevent erosion.
6-12	Liquid material must be injected into the soil. Solid material must be incorporated into the soil if the site is not covered with vegetation. A 100-foot vegetated runoff area is required at the down slope end of the application area for all applications. Measures must be taken to prevent erosion. Terracing may be required if deemed a necessity by the administrative authority to prevent runoff from the land application site and erosion.
>12	Unsuitable for application unless terraces are constructed and a 200-foot vegetated buffer area with a slope of less than 3 percent is provided at the down slope edge of the application area and the material is incorporated (solid material) and injected (liquid material) into the soil. Measures must be taken to prevent runoff from the land application site and to prevent erosion.

E. Pollutant Limits

1. Sewage Sludge and Biosolids

a. Bulk biosolids or biosolids sold or given away in a bag or other container shall not be applied to the land if the concentration of any pollutant in the biosolids exceeds the ceiling concentration for the pollutant in Table 1 of LAC 33:IX.7303.E.

b. If bulk biosolids are applied to agricultural land, forest, a public contact site, or a reclamation site, either:

i. the cumulative loading rate for each pollutant in the biosolids shall not exceed the cumulative pollutant loading rate for the pollutant in Table 2 of LAC 33:IX.7303.E; or

ii. the concentration of each pollutant in the biosolids shall not exceed the concentration for the pollutant in Table 3 of LAC 33:IX.7303.E.

c. If biosolids are applied to a lawn or a home garden, the concentration of each pollutant in the biosolids shall not exceed the ceiling concentrations in Table 1 of LAC 33:IX.7303.E and the pollutant concentrations for each pollutant listed in Table 3 of LAC 33:IX.7303.E, and the concentration of PCBs must be less than 10 mg/kg of total solids (dry wt.).

d. If biosolids are sold or given away in a bag or other container for application to the land, either:

i. the concentration of each pollutant in the biosolids shall not exceed the ceiling concentration for the pollutant in Table 1 of LAC 33:IX.7303.E and the concentration for the pollutant in Table 3 of LAC 33:IX.7303.E, and the concentration of PCBs must be less than 10 mg/kg of total solids (dry wt.); or

ii. the product of the concentration of each pollutant in the biosolids and the annual whole biosolids application rate for the sewage sludge shall not cause the annual pollutant loading rate for the pollutant in Table 4 of LAC 33:IX.7303.E to be exceeded, and the concentration of PCBs must be less than 10 mg/kg of total solids (dry wt.). The procedure used to determine the annual whole biosolids application rate is presented in LAC 33:IX.7397. Appendix K.

e. The administrative authority may require that the biosolids meet more stringent pollutant limits or limits for additional pollutants than those listed in the Tables of LAC 33:IX.7303.E on a case-by-case basis after determining that the more stringent pollutant limits or limits for additional pollutants are needed to protect human health and the environment from any reasonably anticipated adverse effect that may occur from the application of the biosolids to the land.

2. Pollutant Concentrations and Loading Rates—
Biosolids
Ceiling Concentrations

Table 1 of LAC 33:IX.7303.E	
Ceiling Concentrations	
Pollutant	Ceiling Concentration (milligrams per kilogram) ¹
Arsenic	75
Cadmium	85
Copper	4300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
Selenium	100
Zinc	7500

¹Dry weight basis

b. Cumulative Pollutant Loading Rates

Table 2 of LAC 33:IX.7303.E	
Cumulative Pollutant Loading Rates	
Pollutant	Cumulative Pollutant Loading Rate (kilograms per hectare)
Arsenic	41
Cadmium	39
Copper	1500
Lead	300
Mercury	17
Nickel	420
Selenium	100
Zinc	2800

c. Pollutant Concentrations

Table 3 of LAC 33:IX.7303.E	
Pollutant Concentrations	
Pollutant	Monthly Average Concentration (milligrams per kilogram) ¹
Arsenic	41
Cadmium	39
Copper	1500
Lead	300
Mercury	17
Nickel	420
Selenium	100
Zinc	2800

¹Dry weight basis

d. Annual Pollutant Loading Rates

Table 4 of LAC 33:IX.7303.E	
Annual Pollutant Loading Rates	
Pollutant	Annual Pollutant Loading Rate (kilograms per hectare per 365-day period)
Arsenic	2.0

Cadmium	1.9
Copper	75
Lead	15
Mercury	0.85
Nickel	21
Selenium	5.0
Zinc	140

F. Other Requirements for Bulk Biosolids

1. The person who prepares bulk sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site shall provide the person who applies the bulk biosolids with written notification of the concentration, on a dry weight basis, of total nitrogen, ammonia (as N), nitrates, potassium, and phosphorus in the bulk biosolids.

2. When a person who prepares bulk sewage sludge provides the bulk biosolids to a person who applies the bulk biosolids to the land, the person who prepares the bulk sewage sludge shall provide the person who applies the bulk biosolids with notice and necessary information to comply with the requirements in this Chapter.

3. The person who applies bulk biosolids to the land shall provide the owner or leaseholder of the land on which the bulk biosolids are applied with notice and necessary information to comply with the requirements in this Chapter.

4. No person shall apply bulk biosolids subject to the cumulative pollutant loading rates in Table 2 of LAC 33:IX.7303.E to the land without first contacting the administrative authority to determine if bulk biosolids subject to the cumulative pollutant loading rates in Table 2 of LAC 33:IX.7303.E have been applied to the land since July 20, 1993.

5. No person shall apply bulk biosolids subject to the cumulative pollutant loading rates in Table 2 of LAC 33:IX.7303.E to agricultural land, forest, a public contact site, or a reclamation site if any of the cumulative pollutant loading rates in Table 2 of LAC 33:IX.7303.E has been reached.

6. If bulk biosolids have not been applied to a site since July 20, 1993, the cumulative amount for each pollutant listed in Table 2 of LAC 33:IX.7303.E may be applied to the site in accordance with Clause E.1.b.i of this Section.

7. If bulk biosolids have been applied to the site since July 20, 1993, and the cumulative amount of each pollutant applied to the site in the bulk biosolids since that date is known, the cumulative amount of each pollutant applied to the site shall be used to determine the additional amount of each pollutant that can be applied to the site in accordance with Clause E.1.b.i of this Section.

8. If bulk biosolids have been applied to the site since July 20, 1993, and the cumulative amount of each pollutant applied to the site in the bulk biosolids since that date is not known, an additional amount of each pollutant shall not be applied to the site in accordance with Clause E.1.b.i of this Section.

G. Other Management Practices for Bulk Biosolids

1. Bulk biosolids shall not be applied to the land if it is likely to adversely affect a threatened or endangered species listed under Section 4 of the Endangered Species Act or its designated critical habitat.

2. Bulk biosolids shall not be applied to agricultural land, forest, a public contact site, or a reclamation site that is

flooded, frozen, or snow-covered so that the bulk biosolids enter a *wetland* or other *waters of the state*, as defined in LAC 33:IX.2313, except as provided in a permit issued in accordance with Section 402 or 404 of the CWA or LAC 33:IX.Chapters 23-71.

3. Bulk biosolids shall not be applied to agricultural land, forest, or a reclamation site that is 33 feet (10 meters) or less from any *waters of the state*, as defined in LAC 33:IX.2313, unless otherwise specified by the permitting authority.

4. Bulk biosolids shall not be applied to the land if it would affect a property that either is listed on, or is eligible for listing on, the National Historic Register.

H. Operational Standards—Pathogens and Vector Attraction Reduction

1. Pathogens

a. The Exceptional Quality biosolids pathogen requirements in LAC 33:IX.7309.C.1 or the Class B pathogen requirements and site restrictions in LAC 33:IX.7309.C.2 shall be met when bulk biosolids are applied to agricultural land, forest, a public contact site, or a reclamation site.

b. The Exceptional Quality biosolids pathogen requirements in LAC 33:IX.7309.C.1 shall be met when biosolids are applied to a lawn or a home garden.

c. The Exceptional Quality biosolids pathogen requirements in LAC 33:IX.7309.C.1 shall be met when biosolids are sold or given away in a bag or other container for application to the land.

2. Vector Attraction Reduction

a. One of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-g shall be met when bulk biosolids are applied to agricultural land, forest, a public contact site, or a reclamation site.

b. One of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-e shall be met when biosolids are applied to a lawn or a home garden.

c. One of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-e shall be met when biosolids are sold or given away in a bag or other container for application to the land.

I. Frequency of Monitoring

1. The frequency of monitoring for the pollutants listed in Table 1, Table 2, Table 3, and Table 4 of LAC 33:IX.7303.E; the frequency of monitoring for pathogen density requirements in LAC 33:IX.7309.C.1 and 2.b; and the frequency of monitoring for vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-e shall be the frequency specified in Table 1 of LAC 33:IX.7303.I.

Table 1 of LAC 33:IX.7303.I	
Frequency of Monitoring—Land Application	
Amount of Biosolids ¹ (metric tons per 365-day period)	Frequency
Greater than zero but less than 290	Once per year
Equal to or greater than 290 but less than 1,500	Once per quarter (four times per year)
Equal to or greater than 1,500 but less than 15,000	Once per 60 days (six times per year)
Equal to or greater than 15,000	Once per month (12 times per year)

¹Either the amount of bulk biosolids applied to the land, for sale, or give-away in a bag or other container for application to the land (dry weight basis).

2. After the biosolids have been monitored for two years at the frequency in Table 1 of LAC 33:IX.7303.I, the permitting authority may reduce the frequency of monitoring for pollutant concentrations and for the pathogen density requirements in LAC 33:IX.7309.C.1.e.ii and iii.

J. Recordkeeping

1. All *Class I sludge management facilities*, as defined in LAC 33:IX.7301.B, that prepare sewage sludge shall keep a record of the annual production of sewage sludge (i.e., dry ton or dry metric tons) and of the sewage sludge management practice used and retain such record for a period of five years.

2. Additional Recordkeeping

a. The recordkeeping requirements for the person who prepares the sewage sludge or biosolids that are land applied and meet the criteria in Paragraphs A.2 and 4 of this Section are those indicated in Paragraph L.9 of this Section.

b. For bulk biosolids that are applied to agricultural land, forest, a public contact site, or a reclamation site and that meet the pollutant concentrations in Table 3 of LAC 33:IX.7303.E, the Exceptional Quality biosolids pathogen requirements in LAC 33:IX.7309.C.1, and the vector attraction reduction requirements in either LAC 33:IX.7309.D.2.f or g:

i. the person who prepares the bulk biosolids shall develop the following information and shall retain the information for five years:

(a) the concentration of each pollutant listed in Table 3 of LAC 33:IX.7303.E;

(b) a description of how the Exceptional Quality biosolids pathogen requirements in LAC 33:IX.7309.C.1 are met; and

(c) the following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the Exceptional Quality biosolids pathogen requirements in LAC 33:IX.7309.C.1 was prepared under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."; and

ii. the person who applies the bulk biosolids to the land shall develop the following information and shall retain the information for five years:

(a) a description of how the general management practices in Paragraphs D.1-4 of this Section and the other management practices for bulk biosolids in Subsection G of this Section are met for each site on which bulk biosolids are applied;

(b) a description of how the vector attraction reduction requirements in either LAC 33:IX.7309.D.2.f or g are met for each site on which bulk biosolids are applied; and

(c) the following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the general management practices in LAC 33:IX.7303.D.1-4, the other management practices for bulk biosolids in LAC 33:IX.7303.G, and the vector attraction reduction requirement in [insert either LAC 33:IX.7309.D.2.f or g] was prepared under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

c. For bulk biosolids that are applied to agricultural land, forest, a public contact site, or a reclamation site and that meet the pollutant concentrations in Table 3 of LAC 33:IX.7303.E, the Class B pathogen requirements in LAC 33:IX.7309.C.2, and the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-g:

i. the person who prepares the bulk biosolids shall develop the following information and shall retain the information for five years:

(a). the concentration of each pollutant listed in Table 3 of LAC 33:IX.7303.E;

(b). a description of how the Class B pathogen requirements in LAC 33:IX.7309.C.2 are met;

(c). a description of how one of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-g is met; and

(d). the following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the Class B pathogen requirements in LAC 33:IX.7309.C.2 and the vector attraction reduction requirement in [insert one of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-g] was prepared under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."; and

ii. the person who applies the bulk biosolids to the land shall develop the following information and shall retain the information for five years:

(a). a description of how the general management practices in Paragraphs D.1-4 of this Section and the other management practices for bulk biosolids in Subsection G of this Section are met for each land site on which bulk biosolids are applied;

(b). a description of how the site restrictions in LAC 33:IX.7309.C.2.e are met for each land site on which bulk biosolids are applied;

(c). when the vector attraction reduction requirement in either LAC 33:IX.7309.D.2.f or g is met, a description of how the requirement is met;

(d). the date bulk biosolids are applied to each site; and

(e). the following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the general management practices in LAC 33:IX.7303.D.1-4, the other management practices for bulk biosolids in LAC 33:IX.7303.G, the site restrictions in LAC 33:IX.7309.C.2.e, and the vector attraction reduction requirement in [insert either LAC 33:IX.7309.D.2.f or g] was prepared for each site on which bulk biosolids are applied under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

d. For bulk biosolids applied to the land that is agricultural land, forest, a public contact site, or a reclamation site whose cumulative loading rate for each pollutant does not exceed the cumulative pollutant loading rate for each pollutant in Table 2 of LAC 33:IX.7303.E and that meet the Exceptional Quality biosolids or Class B pathogen requirements in LAC 33:IX.7309.C, and the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-g:

i. the person who prepares the bulk biosolids shall develop the following information and shall retain the information for five years:

(a). the concentration of each pollutant listed in Table 1 of LAC 33:IX.7303.E in the bulk biosolids;

(b). a description of how the Exceptional Quality biosolids or Class B pathogen requirements in LAC 33:IX.7309.C are met;

(c). a description of how one of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-g is met; and

(d). the following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the pathogen requirements in [insert either LAC 33:IX.7309.C.1 or 2] and the vector attraction reduction requirement in [insert one of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-g] was prepared under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."; and

ii. the person who applies the bulk biosolids to the land shall develop the following information, retain the information in Subclauses J.2.d.ii.(a)-(g) of this Section indefinitely, and retain the information in Subclauses J.2.d.ii.(h)-(m) of this Section for five years:

(a). the location, by either street address or latitude and longitude, of each land site on which bulk biosolids are applied;

(b). the number of hectares or acres in each site on which bulk biosolids are applied;

(c). the date bulk biosolids are applied to each land site;

(d). the cumulative amount of each pollutant (i.e., kilograms) listed in Table 2 of LAC 33:IX.7303.E in the bulk biosolids applied to each land site, including the amount in Paragraph F.7 of this Section;

(e). the amount of biosolids (i.e., tons or metric tons) applied to each land site;

(f). a description of how the information was obtained in order to comply with Subsection F of this Section;

(g). the following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the requirements in LAC 33:IX.7303.F was prepared for each land site on which bulk biosolids were applied under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."; and

(h). a description of how the general management practices in Paragraphs D.1-4 of this Section and the other management practices for bulk biosolids in Subsection G of this Section are met for each land site on which bulk biosolids are applied;

(i). the following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the general management practices in LAC 33:IX.7303.D.1-4 and the other management practices for bulk biosolids in LAC 33:IX.7303.G was prepared for each land site on which bulk biosolids were applied under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel

properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.";

(j). a description of how the site restrictions in LAC 33:IX.7309.C.2.e are met for each land site on which Class B bulk biosolids are applied;

(k). the following certification statement when the bulk biosolids meet the Class B pathogen requirements in LAC 33:IX.7309.C.2:

"I certify, under penalty of law, that the information that will be used to determine compliance with the site restrictions in LAC 33:IX.7309.C.2.e for each land site on which Class B biosolids were applied was prepared under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.";

(l). if the vector attraction reduction requirements in either LAC 33:IX.7309.D.2.f or g are met, a description of how the requirements are met; and

(m). the following certification statement when the vector attraction reduction requirement in either LAC 33:IX.7309.D.2.f or g is met:

"I certify, under penalty of law, that the information that will be used to determine compliance with the vector attraction reduction requirement in [insert either LAC 33:IX.7309.D.2.f or g] was prepared under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

e. For biosolids sold or given away in a bag or other container for application to the land meeting the requirement at Clause E.1.d.ii of this Section, the Exceptional Quality biosolids pathogen requirements at LAC 33:IX.7309.C.1, and the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-e:

i. the person who prepares the biosolids that are sold or given away in a bag or other container shall develop the following information and shall retain the information for five years:

(a). the annual whole biosolids application rate for the biosolids that does not cause the annual pollutant loading rates in Table 4 of LAC 33:IX.7303.E to be exceeded;

(b). the concentration of each pollutant listed in Table 4 of LAC 33:IX.7303.E in the biosolids;

(c). a description of how the Exceptional Quality biosolids pathogen requirements in LAC 33:IX.7309.C.1 are met;

(d). a description of how one of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-e is met;

(e). a description of how the general management practice in Subparagraph D.5.b of this Section was met; and

(f). the following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the general management practice in LAC 33:IX.7303.D.5.b, the Exceptional Quality biosolids pathogen requirements in LAC 33:IX.7309.C.1, and the vector attraction reduction requirement in [insert one of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-e] was prepared under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this

information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."; and

ii. the person who applies the biosolids that are given away or sold in a bag or other container to the land that is agricultural land, forest, a public contact site, or a reclamation area shall develop the following information and shall retain the information for five years:

(a). a description of how the general management practices in Paragraphs D.1-4 and Subparagraph D.5.a of this Section are met for each site on which the biosolids given away or sold in a bag or other container are applied; and

(b). the following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the general management practices in LAC 33:IX.7303.D.1-4 and D.5.a was prepared for each site on which biosolids given away or sold in a bag or other container are applied under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including fine and imprisonment."

K. Reporting

1. All *Class I sludge management facilities*, as defined in LAC 33:IX.7301.B, that prepare sewage sludge shall submit the information in Paragraph J.1 of this Section to the administrative authority on February 19 of each year.

2. Additional Reporting Requirements

a. Reporting requirements for a person who prepares *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B, from sewage sludge, having a permit to do so, are as indicated in Paragraph L.10 of this Section.

b. All other *Class I sludge management facilities*, as defined in LAC 33:IX.7301.B, that apply bulk biosolids to the land and are required to obtain a permit under LAC 33:IX.7301.D, shall submit the information in Paragraph J.2 of this Section, for the appropriate requirements, to the administrative authority as follows.

i. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.7303.I of once per year, the reporting period and the report due date shall be as specified in Table 1 of LAC 33:IX.7303.K.

Table 1 of LAC 33:IX.7303.K	
Reporting—Land Application	
Monitoring Period (Once per Year)	Report Due Date
January - December	February 28

ii. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.7303.I of once per quarter (four times per year), the reporting period and the report due date shall be as specified in Table 2 of LAC 33:IX.7303.K.

Table 2 of LAC 33:IX.7303.K	
Reporting—Land Application	
Monitoring Period ¹ (Once per Quarter)	Report Due Date
January, February, March	August 28
April, May, June	
July, August, September	February 28
October, November, December	

¹Separate reports must be submitted for each monitoring period.

iii. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.7303.I of once per 60 days (six times per year), the reporting period and the report due date shall be as specified in Table 3 of LAC 33:IX.7303.K.

Table 3 of LAC 33:IX.7303.K	
Reporting—Land Application	
Monitoring Period ¹ (Once per 60 Days)	Report Due Date
January, February	June 28
March, April	
May, June	
July, August	October 28
September, October	
November, December	February 28
¹ Separate reports must be submitted for each monitoring period.	

iv. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.7303.I of once per month (12 times per year), the reporting period and the report due date shall be as specified in Table 4 of LAC 33:IX.7303.K.

Table 4 of LAC 33:IX.7303.K	
Reporting—Land Application	
Monitoring Period ¹ (Once per Month)	Report Due Date
January	May 28
February	
March	
April	August 28
May	
June	
July	November 28
August	
September	
October	February 28
November	
December	
¹ Separate reports must be submitted for each monitoring period.	

3. The administrative authority may require any facility indicated in Subparagraph K.2.a of this Section to report any or all of the information required in Subparagraph K.2.b of this Section if deemed necessary for the protection of human health or the environment.

L. Requirements for Persons who Prepare Sewage Sludge as Exceptional Quality Biosolids

1. A person who prepares sewage sludge as Exceptional Quality biosolids must prepare the sewage sludge in a manner that will assure that the sewage sludge meets all of the requirements of *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B, and shall forward to the administrative authority a Sewage Sludge and Biosolids Use or Disposal Permit application form having the following information:

- a. the laboratory analysis of the metals in Tables 1 and 3 of LAC 33:IX.7303.E;
- b. the laboratory analysis for percent dry solids, percent ammonia nitrogen, percent nitrate-nitrite, percent total Kjeldahl nitrogen, percent organic nitrogen, percent phosphorus, percent potassium, percent organic matter, and pH if the sewage sludge or biosolids underwent or was subjected to any type of alkaline stabilization and/or alkaline treatment;

c. the laboratory results for polychlorinated biphenyls (PCBs);

d. the Exceptional Quality biosolids pathogen requirement in LAC 33:IX.7309.C.1 that will be utilized;

e. the vector attraction reduction requirement in LAC 33:IX.7309.D.2.a-e that will be utilized; and

f. an example of the label or information sheet that will accompany biosolids that are sold or given away either in bulk or in a bag, containing the following information:

- i. the name and address of the preparer;
- ii. the concentration (by volume) of each metal in Table 3 of LAC 33:IX.7303.E;
- iii. total nitrogen;
- iv. percent ammonia (as N);
- v. percent phosphorus;
- vi. pH;
- vii. the concentration of PCBs in mg/kg of total solids (dry wt.); and
- viii. application instructions and a statement that application of the biosolids to the land is prohibited except in accordance with the instructions on the label or information sheet.

2. The administrative authority may require that the biosolids meet more stringent pollutant limits, or limits for additional pollutants than those listed in Subparagraphs L.1.a-e of this Section, on a case-by-case basis after determining that the more stringent pollutant limits or limits for additional pollutants are needed to protect human health and the environment from any reasonably-anticipated adverse effect that may occur from the application of the biosolids to the land.

3. Samples required to be collected in accordance with Subparagraphs L.1.a-c of this Section shall be from at least four representative samplings of the biosolids taken at least 60 days apart within the 12 months prior to the date of the submittal of the Sewage Sludge and Biosolids Use or Disposal Permit application form.

4. All permits issued to persons who prepare sewage sludge as Exceptional Quality biosolids shall have a term of not more than five years.

5. For the term of the permit, the preparer of the biosolids shall conduct continued sampling at a frequency of monitoring of once per quarter. The samples shall be analyzed for the parameters specified in Subparagraphs L.1.a-c of this Section, and for the pathogen and vector attraction reduction requirements in Subparagraphs L.1.d and e, as required by LAC 33:IX.7309.

6. If results of the sampling indicate that the biosolids are no longer *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B, then the preparer must cease any land application of the biosolids as Exceptional Quality biosolids.

7. If biosolids that are no longer Exceptional Quality biosolids are used or disposed, the exemption for Exceptional Quality biosolids no longer applies, and the biosolids must meet all the requirements and restrictions of this Chapter that apply to biosolids that are no longer Exceptional Quality biosolids.

8. Biosolids shall not be applied to the land as Exceptional Quality biosolids until the sample analyses have shown that the biosolids meet the criteria for *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B.

9. The person who prepares the biosolids shall develop the following information and shall retain the information for five years:

- a. the results of the sample analysis required in Paragraph L.5 of this Section; and
- b. the following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the Exceptional Quality biosolids pathogen requirements in LAC 33:IX.7309.C.1 and the vector attraction reduction requirement in [insert one of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-e] was prepared under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

10. The person who prepares Exceptional Quality biosolids shall forward the information required in Paragraph L.9 of this Section to the administrative authority on a quarterly basis. The schedule for quarterly submission is contained in the following table.

Schedule For Quarterly Submission	
Monitoring Period	DMR Due Date
January, February, March	May 28
April, May, June	August 28
July, August, September	November 28
October, November, December	February 28

M. Any person subject to these regulations who prepares sewage sludge may petition the administrative authority to allow the land application of sewage sludge that is mixed with grease that was pumped or removed from a food service facility.

1. The administrative authority may grant temporary approval, for a period not to exceed one year, for the land application of sewage sludge that is mixed with grease that was pumped or removed from a food service facility, along with the appropriate monitoring, sampling and analysis, recordkeeping, and reporting requirements, when petitions for such are deemed appropriate after consideration of the factors enumerated in Paragraph M.2 of this Section as well as any other pertinent factors.

2. Each petition for the allowance of land application of sewage sludge that is mixed with grease that was pumped or removed from a food service facility shall:

- a. be submitted in writing to the administrative authority;
- b. be accompanied by evidence of public notice in the state journal and in the local journal; and
- c. contain the following information:
 - i. documentation to prove that the preparation or treatment process will be the composting process to further reduce pathogens described in LAC 33:IX.7399.Appendix L;
 - ii. documentation to prove that the facility owner/operator has successfully completed a department-approved composting facility operator training course; and
 - iii. documentation to satisfy the requirements in Subsection L of this Section and LAC 33:IX.7305 and 7307.

3. If the owner/operator wishes to continue operation of the compost facility, he or she shall submit to the administrative authority a completed Sewage Sludge and Biosolids Use or Disposal Permit application form at least

180 days prior to the expiration date of the approval. The decision to grant or deny a permit for continuation of the compost operation shall be based on the information provided in the permit application, the monitoring and sampling and analysis results submitted during the one-year approval period, and any comments or other information received during the standard permit public notice period.

N. Procedure for the Addition or Removal of Land Application Sites

1. If a person who possesses a Sewage Sludge and Biosolids Use or Disposal Permit wishes to add a land application site or sites to the permit, the person shall submit a request package to the administrative authority containing the following information:

- a. evidence of notification of the landowners bordering the proposed land application site or sites. The notification shall be in the form of a public notice placed in the local newspaper being circulated in the area of the proposed site or sites, certified letters of notification that were either hand delivered or mailed to the landowners bordering the proposed site or sites, or signed agreements of the landowners bordering the proposed site or sites to application of biosolids to the site or sites;
- b. signed agreement(s) to the application of biosolids from the landowner(s) of the proposed site or sites; and
- c. a completed Sewage Sludge and Biosolids Use or Disposal Permit application form.

2. If a person who possesses a Sewage Sludge and Biosolids Use or Disposal Permit wishes to remove a land application site or sites from the permit, the person shall submit a request package to the administrative authority at least 90 days prior to the removal of the site or sites containing the following information:

- a. aerial photographs showing the location of the land application site or sites that are being proposed to be removed;
- b. certification that all biosolids that were stored at the site or sites have either been land applied in accordance with the permit requirements or totally removed and used at another site in accordance with the permit requirements or removed and disposed at a permitted landfill; and
- c. signed agreements from the landowner(s) of the site or sites for the site or sites to be removed from the land application of biosolids.

3. After receipt and review of the request package required in Paragraph N.1 of this Section for the addition of a land application site or sites or the request package required in Paragraph N.2 of this Section for the removal of a land application site or sites, a decision shall be rendered by the administrative authority regarding the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074.B.(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§7305. Siting and Operation Requirements for Commercial Preparers of Sewage Sludge [Formerly §6905]

A. Exemption. A *publicly owned treatment works (POTW)*, as defined in LAC 33:IX.7301.B, shall be exempted from the siting requirements in Subsection B of this Section and the facility closure requirements in

Paragraph C.3 of this Section if the POTW prepares only sewage sludge generated at the POTW or sewage sludge generated at a facility that is owned or operated by the POTW and the POTW's sewage sludge treatment facility is located within the POTW's boundary or perimeter.

B. Siting

1. Location Characteristics

a. Facilities shall not be located less than 200 feet from a property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the adjoining landowners and occupants. A copy of the notarized affidavit waiving the 200-foot buffer zone shall be entered in the mortgage and conveyance records of the parish for the adjoining landowner's property.

b. Facilities shall not be located less than 300 feet from a private potable water supply or a private water supply elevated storage tank or ground storage tank unless special permission is granted by the private potable water supply owner.

c. Facilities shall not be located less than 300 feet from a public potable water supply or a public water supply elevated storage tank or ground storage tank unless special permission is granted by the Department of Health and Hospitals.

d. Facilities shall not be located less than 100 feet from wetlands, surface waters (streams, ponds, lakes), or areas historically subject to overflow from floods.

e. Facilities shall only be located in a hydrologic section where the historic high water table is at a minimum of a 3-foot depth below the surface, or the water table at the facility shall be controlled to a minimum of a 3-foot depth below this zone.

f. Untreated sewage sludge, other materials, feedstock, or supplements to be utilized at a facility shall not be located less than 25 feet from a subsurface drainage pipe or drainage ditch that discharges directly to waters of the state.

g. New or first-time-permitted facilities that are not located within the boundaries of a legally zoned and established industrial park:

i. shall not be located less than 1,000 feet from an established *institution*, as defined in LAC 33:IX.7301.B, unless special permission is granted by the owner of the institution. The permission must be in the form of an affidavit executed by the owner waiving the 1,000-foot buffer zone. However, in no case shall the facility be located less than 200 feet from such an institution; and

ii. shall not be located less than 500 feet from an established home residence unless special permission has been granted by the owner and/or lessee of the established home residence in the form of an affidavit executed by the owner and/or lessee waiving the 500-foot buffer zone. However, in no case shall the facility be located less than 200 feet from an established home residence.

h. Facilities that prepare or compost only sewage sludge or blend, mix, or compost sewage sludge and have only woodchips or yard waste (e.g., leaves, lawn clippings, or branches) as feedstock or supplements shall not be located closer than the greater of the following distances from an airport:

i. 1,200 feet from the *air operations area*, as defined in LAC 33:IX.7301.B; or

ii. the distance called for by the U.S. Department of Transportation Federal Aviation Administration's airport design requirements.

i. Facilities that blend, mix, or compost sewage sludge that include food or other municipal solid waste as feedstock or supplements shall not be located closer than:

i. 5,000 feet from any airport property boundary (including the air operations area) if the airport does not sell Jet-A fuel and serves only piston-powered aircraft; or

ii. 10,000 feet from any airport property boundary (including the air operations area) if the airport sells Jet-A fuel and serves turbine-powered aircraft, or sells Jet-A fuel and is designed to serve turbine-powered and/or piston-powered aircraft.

j. Storage and processing of sewage sludge or biosolids is prohibited within any of the buffer zones indicated in Subparagraphs B.1.a-i of this Section.

k. Facilities located in, or within 1,000 feet of, swamps, marshes, wetlands, estuaries, wildlife-hatchery areas, habitat of endangered species, archaeological sites, historic sites, publicly owned recreation areas, and similar critical environmental areas shall be isolated from such areas by effective barriers that eliminate probable adverse impacts from facility operations.

l. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the area from adverse impacts of operations at the facility.

m. Access to facilities by land or water transportation shall be by all-weather roads or waterways that can meet the demands of the facility and are designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents; and the surface roadways shall be adequate to withstand the weight of transportation vehicles.

2. Facility Characteristics

a. Perimeter Barriers, Security, and Signs

i. All facilities shall have a perimeter barrier around the facility that prevents unauthorized ingress or egress, except by willful entry.

ii. During operating hours, each facility entry point shall be continuously monitored, manned, or locked.

iii. During non-operating hours, each facility entry point shall be locked.

iv. All facilities that receive sewage sludge, other materials, feedstock, or supplements from off-site sources shall post readable signs that list the types of sewage sludge, other materials, feedstock, or supplements that can be received at the facility.

b. Fire Protection and Medical Care. All facilities shall have access to required fire protection and medical care with access gates that are wide enough to allow easy access for emergency vehicles, or such services shall be provided internally.

c. Receiving and Monitoring Sewage Sludge, Other Materials, Feedstock, or Supplements Used

i. Any facility used to prepare sewage sludge shall be equipped with a device or method to determine quantity (by wet-weight tonnage), sources (whether the sewage sludge, other materials, feedstock, or supplements to be mixed with the sewage were generated in-state or out-of-state), and types of other materials, feedstock, or supplements. The facility shall also be equipped with a

device or method to control entry of sewage sludge, other materials, feedstock, or supplements coming on-site and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous, industrial, unauthorized, or unpermitted solid waste).

ii. Any facility used to prepare sewage sludge shall be equipped with a central control and recordkeeping system for tabulating the information required in Clause B.2.c.i of this Section.

3. Facility Surface Hydrology

a. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the facility to adjoining areas during a 24-hour/25-year storm event. When rainfall records are not available, the design standard shall be 12 inches of rainfall below 31 degrees north latitude and 9 inches of rainfall above 31 degrees north latitude. If the 24-hour/25-year storm event level is lower, the design standard shall be required.

b. Storm water run-on shall be prevented from entering the receiving, processing, curing, and storage areas by the use of berms or other physical barriers.

c. The topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility.

d. All storm water and wastewater from a facility must conform to applicable requirements of LAC 33:IX.Chapters 23-67.

4. Facility Geology

a. Except as provided in Subparagraph B.4.c of this Section, facilities shall have natural stable soils of low permeability for the area occupied by the facility, including vehicle parking and turnaround areas, that should provide a barrier to prevent any penetration of surface spills into groundwater aquifers underlying the area or to a sand or other water-bearing strata that would provide conduits to such an aquifer.

b. The natural soil surface must be capable of supporting heavy equipment operation during and after prolonged periods of rain.

c. A design for surfacing natural soils that do not meet the requirements in Subparagraphs B.4.a and b of this Section shall be prepared under the supervision of a registered engineer, licensed in the state of Louisiana with expertise in geotechnical engineering and geohydrology. Written certification by the engineer that the surface satisfies the requirements of Subparagraphs B.4.a and b of this Section shall be provided.

5. Facility Plans and Specifications. Facility plans and specifications represented and described in the permit applications or permit modifications for all facilities must be prepared under the supervision of, and certified by, a registered engineer, licensed in the state of Louisiana.

6. Facility Administrative Procedures

a. Permit Modifications. Permit modifications shall be in accordance with the requirements of this Chapter.

b. Personnel. All facilities shall have the personnel necessary to achieve the operational requirements of the facility.

C. Operations

1. Operational Requirements for All Preparers of Sewage Sludge

a. Facility Operations and Maintenance Manual

i. A facility operations and maintenance manual shall be developed and forwarded with the permit application to the administrative authority.

ii. The facility operations and maintenance manual shall describe, in specific detail, how the sewage sludge and the other feedstock or supplements to be blended, composted, or mixed with the sewage sludge (if applicable) will be managed during all phases of processing operations. At a minimum, the manual shall address the following:

- (a). site and project description;
- (b). regulatory interfaces;
- (c). process management plan;
- (d). pathogen treatment plan;
- (e). odor management plan;
- (f). worker health and safety management plan;
- (g). housekeeping and nuisance management

plan;

(h). emergency preparedness plan;

(i). security, community relations, and public access plan;

(j). regulated chemicals (list and location of regulated chemicals kept on-site);

(k). recordkeeping procedures;

(l). feedstock, supplements, and process management;

(m). product distribution records;

(n). operator certification; and

(o). administration of the operations and maintenance manual.

iii. The facility operations and maintenance manual shall be kept on-site and readily available to employees and, if requested, to the administrative authority or his/her duly authorized representative.

b. Facility Operational Standards

i. The facility must include a receiving area, a mixing area, a curing area, a compost storage area for composting operations, drying and screening areas, and a truck wash area, which shall be located on surfaces capable of preventing groundwater contamination (periodic inspections of the surface shall be made to ensure that the underlying soils and the surrounding land surface are not being contaminated).

ii. All containers shall provide containment of the sewage sludge and the other feedstock or supplements to be blended, composted, or mixed with the sewage sludge, and thereby control litter and other pollution of adjoining areas.

iii. Provisions shall be made for the daily cleanup of the facility, including equipment and waste-handling areas.

iv. Treatment facilities for washdown and contaminated water shall be provided, or the wastewater contained, collected, and transported off-site to an approved wastewater treatment facility.

v. Leachate produced in the composting process:

(a). shall be collected and disposed off-site at a permitted facility; or

(b). shall be collected, treated, and discharged on-site in accordance with LAC 33:IX.Chapters 23-67; or

(c). may be reused in the composting process as a source of moisture.

vi. Sufficient equipment shall be provided and maintained at all facilities to meet their operational needs.

vii. Odor Management

- (a). The production of odor shall be minimized.
- (b). Processed air and other sources of odor shall

be contained and, if necessary, treated in order to remove odor before discharging to the atmosphere.

viii. Other feedstock and supplements that are blended, composted, or mixed with sewage sludge shall be treated for the effective removal of sharps including, but not limited to, sewing needles, straight pins, hypodermic needles, telephone wires, and metal bracelets.

2. Additional Operational Requirements for Composters

a. The facility operations and maintenance manual shall include the methods utilized for managing the biological conditions during the composting procedure (i.e., carbon/nitrogen ratio, moisture, O₂ levels, free air space).

b. The composting procedure shall begin within 24 hours of receipt of the material to be prepared as a compost.

c. The facility shall have a storage capacity designed for the finished compost for a quantity not to exceed 18 months' production.

d. Any compost made from sewage sludge that cannot be used according to these regulations shall be reprocessed or disposed of in an approved facility.

e. Composted sewage sludge shall be used, sold, or disposed of at a permitted disposal facility within 36 months of completion of the composting process.

f. The final composted product shall be stable and mature.

g. In addition to the label requirements in LAC 33:IX.7303.L.1.f.i-viii, the label that must accompany all compost sold or given away either in bulk or in a bag or other container shall contain the following information:

- i. soluble salt content;
- ii. water holding capacity;
- iii. bulk density (lbs/yd³);
- iv. particle size;
- v. moisture content; and
- vi. organic matter content.

h. Adequate covers shall be provided for windrows during the curing stage to protect the compost from rainwater.

i. Covered areas shall be provided where feedstock is prepared.

3. Facility Closure Requirements

a. Notification of Intent to Close a Facility. All permit holders shall notify the administrative authority in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

- i. the date of planned closure;
- ii. changes, if any, requested in the approved closure plan; and
- iii. the closure schedule and estimated cost.

b. Closure Requirements

i. An insect and rodent inspection is required before closure. Extermination measures, if required, must be provided.

ii. All remaining untreated and unprepared sewage sludge, other materials, feedstock, and supplements shall be dewatered, removed, and disposed of in a permitted facility within 10 days of ceasing operations.

iii. All biosolids shall be used or disposed of in accordance with the provisions set forth in these regulations within 10 days of ceasing operations.

c. Additional Closure Requirements. Additional closure requirements for commercial preparers of sewage sludge who utilize composting as the process to prepare the sewage sludge and for all other commercial preparers of sewage sludge who prepare an amount of sewage sludge equal to or greater than 15,000 metric tons per year are as follows.

i. The permit holder shall verify that the soils within the facility boundary have not been contaminated in the operation of the facility.

ii. If contamination exists, a remediation/removal program developed to meet the requirements of Subparagraph C.3.d of this Section must be provided to the administrative authority.

d. Remediation/Removal Program

i. If a clean closure is achieved, there are no further post-closure requirements. The plan for clean closure must reflect a method for determining that all waste has been removed, and such a plan shall, at a minimum, include the following:

(a). identification (analysis) of the sewage sludge, other materials, feedstock, and supplements that have entered the facility;

(b). selection of the indicator parameters to be sampled that are intrinsic to the sewage sludge, other materials, feedstock, and supplements that have entered the facility in order to establish clean-closure criteria. Justification of the parameters selected shall be provided in the closure plan;

(c). sampling and analyses of the uncontaminated soils in the general area of the facility for a determination of background levels using the indicator parameters selected. A diagram showing the location of the area proposed for the background sampling, along with a description of the sampling and testing methods, shall be provided;

(d). a discussion of the sampling and analyses of the "clean" soils for the selected parameters after the waste and contaminated soils have been excavated. Documentation regarding the sampling and testing methods (i.e., including a plan view of the facility, sampling locations, and sampling quality-assurance/quality-control programs) shall be provided;

(e). a discussion of a comparison of the sample(s) from the area of the excavated facility to the background sample. Concentrations of the selected parameter(s) of the bottom and side soil samples of the facility must be equal to or less than the background sample to meet clean closure criteria;

(f). submission of the analyses to the Office of Environmental Services confirming that the requirements of Subparagraph C.3.b of this Section have been satisfied;

(g). identification of the facility to be used for the disposal of the excavated waste; and

(h). a statement from the permit holder indicating that, after the closure requirements have been met, the permit holder will file a request for a closure inspection with the Office of Environmental Services before backfilling

takes place. The administrative authority will determine whether the facility has been closed properly.

ii. If the permit holder demonstrates that removal of most of the biosolids, untreated sewage sludge, other materials, feedstock, and supplements in order to achieve an alternate level of contaminants based on indicator parameters in the contaminated soil will be adequately protective of human health and the environment (including groundwater) in accordance with LAC 33:I.Chapter 13, the administrative authority may decrease or eliminate the post-closure requirements.

(a). If levels of contamination at the time of closure meet applicable standards as specified in LAC 33:I.Chapter 13 and approval of the administrative authority is granted, the requirements of Clause C.3.c.ii of this Section shall not apply.

(b). Excepting those sites closed in accordance with Subclause C.3.c.ii.(a) of this Section, within 90 days after a closure is completed, the permit holder must have entered in the mortgage and conveyance records of the parish in which the property is located, a notation stating that solid waste remains at the site and providing the indicator levels obtained during closure.

iii. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§7307. Financial Assurance Requirements for Commercial Preparers of Sewage Sludge and Commercial Land Appliers of Biosolids [Formerly §6907]

A. Financial Responsibility During Operation. Commercial preparers of sewage sludge and commercial land appliers of biosolids have the following financial responsibilities while their facilities are in operation.

1. Commercial preparers of sewage sludge and commercial land appliers of biosolids have the same financial assurance requirements as privately-owned sewage treatment facilities (LAC 33:IX.Chapter 67) if the amount of sewage sludge prepared or the amount of biosolids applied to the land is less than 15,000 metric tons per year. If these requirements cannot be met, an alternative financial assurance mechanism shall be submitted for review and approval by the administrative authority. Such an alternative financial assurance mechanism shall not result in a value of financial assurance that is less than the amount provided as a written cost estimate for closure of the facility in the permit application.

2. All other commercial preparers of sewage sludge and commercial land appliers of biosolids shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of \$1 million per occurrence and \$1 million annual aggregate, per site, exclusive of legal defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services. This

financial responsibility may be established by any one or a combination of the following.

a. Evidence of Liability Insurance. Evidence of liability insurance may consist of either a signed duplicate original of a commercial preparer of sewage sludge or commercial land applier of biosolids liability endorsement, or a certificate of insurance. All liability endorsements and certificates of insurance must include:

i. a statement of coverage relative to environmental risks;

ii. a statement of all exclusions to the policy; and

iii. a certification by the insurer that the insurance afforded with respect to such sudden accidental occurrences is subject to all of the terms and conditions of the policy provided, however, that any provisions of the policy inconsistent with Subclauses A.2.a.iii.(a)-(f) of this Section are amended to conform with said Subclauses:

(a). bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy;

(b). the insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in Subparagraph A.2.d, e, or f of this Section;

(c). whenever requested by the administrative authority, the insurer agrees to furnish to the administrative authority a signed duplicate original of the policy and all endorsements;

(d). cancellation of the policy, whether by the insurer or the insured, will be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the Office of Environmental Services;

(e). any other termination of the policy will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the Office of Environmental Services; and

(f). the insurer is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana.

b. Wording of Liability Endorsement. The wording of a liability endorsement shall be identical to the wording in LAC 33:IX.7395.Appendix A, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

c. Wording of Certificate of Insurance. The wording of a certificate of insurance shall be identical to the wording in LAC 33:IX.7395.Appendix B, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

d. Letter of Credit. A permit holder or applicant may satisfy the requirements of this Subsection by obtaining an irrevocable standby letter of credit that conforms to the following requirements and submitting the letter to the administrative authority.

i. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

ii. A permit holder or applicant who uses a letter of credit to satisfy the requirements of this Subsection must

also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the administrative authority will be deposited by the issuing institution directly into the standby trust fund. The wording of the standby trust fund agreement shall be as specified in Subparagraph B.3.i of this Section.

iii. The letter of credit must be accompanied by a letter from the permit holder or applicant referring to the letter of credit by number, name of issuing institution, and date, and providing the following information:

- (a). the agency interest number;
- (b). the site name;
- (c). the facility name;
- (d). the facility permit number; and
- (e). the amount of funds assured for liability coverage of the facility by the letter of credit.

iv. The letter of credit must be irrevocable and issued for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and the administrative authority by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permit holder and the Office of Environmental Services receive the notice, as evidenced by the return receipts.

v. The wording of the letter of credit shall be identical to the wording in LAC 33:IX.7395.Appendix C, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

e. Financial Test

i. To meet this test, the applicant, permit holder, or parent corporation of the applicant (corporate guarantor) or permit holder must submit to the Office of Environmental Services the documents required by Paragraph B.8 of this Section demonstrating that the requirements of Paragraph B.8 of this Section have been met. Use of the financial test may be disallowed on the basis of the accessibility of the assets of the permit holder, applicant, or parent corporation (corporate guarantor). If the applicant, permit holder, or parent corporation is using the financial test to demonstrate liability coverage and closure and post-closure care, only one letter from the chief financial officer is required.

ii. The assets of the parent corporation of the applicant or permit holder shall not be used to determine whether the applicant or permit holder satisfies the financial test, unless the parent corporation has supplied a corporate guarantee as authorized in Subparagraph A.2.f of this Section.

iii. The wording of the financial test shall be as specified in Subparagraph B.8.d of this Section.

f. Corporate Guarantee

i. A permit holder or applicant may meet the requirements of Paragraph A.2 of this Section for liability coverage by obtaining a written guarantee, hereafter referred to as a *corporate guarantee*. The guarantor must demonstrate to the administrative authority that the guarantor meets the requirements in this Subsection and must comply with the terms of the corporate guarantee. The corporate guarantee must accompany the items sent to the administrative authority specified in Subparagraphs B.8.b and d of this Section. The terms of the corporate guarantee

must be in an authentic act signed and sworn to by an authorized officer of the corporation before a notary public and must provide that:

(a). the guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in Paragraph B.8 of this Section;

(b). the guarantor is the parent corporation of the permit holder or applicant of the commercial preparer of sewage sludge or land applier of biosolids to be covered by the guarantee, and the guarantee extends to certain facilities;

(c). if the permit holder or applicant fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden and accidental occurrences (or both as the case may be), arising from the operation of facilities covered by the corporate guarantee, or fails to pay an amount agreed to in settlement of the claims arising from or alleged to arise from such injury or damage, the guarantor will do so up to the limits of coverage;

(d). the guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial test criteria, the guarantor shall send within 90 days, by certified mail, notice to the Office of Environmental Services and to the permit holder or applicant, that he intends to provide alternative financial assurance as specified in this Subsection, in the name of the permit holder or applicant, and that within 120 days after the end of said fiscal year the guarantor shall establish such financial assurance, unless the permit holder or applicant has done so;

(e). the guarantor agrees to notify the Office of Environmental Services by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;

(f). the guarantor agrees that within 30 days after being notified by the administrative authority of a determination that the guarantor no longer meets the financial test criteria or that he or she is disallowed from continuing as a guarantor of closure or post-closure care, he or she shall establish alternate financial assurance as specified in this Subsection in the name of the permit holder or applicant unless the permit holder or applicant has done so;

(g). the guarantor agrees to remain bound under the guarantee notwithstanding any or all of the following: amendment or modification of the permit, or any other modification or alteration of an obligation of the permit holder or applicant in accordance with these regulations;

(h). the guarantor agrees to remain bound under the guarantee for as long as the permit holder or applicant must comply with the applicable financial assurance requirements of Subsection B of this Section for the above-listed facilities, except that the guarantor may cancel this guarantee by sending notice by certified mail to the administrative authority and the permit holder or applicant. Such cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the permit holder, as evidenced by the return receipts;

(i). the guarantor agrees that if the permit holder or applicant fails to provide alternate financial assurance, as specified in this Subsection, and obtain written approval of such assurance from the administrative authority within 60 days after the administrative authority receives the guarantor's notice of cancellation, the guarantor shall provide such alternate financial assurance in the name of the permit holder or applicant;

(j). the guarantor expressly waives notice of acceptance of the guarantee by the administrative authority or by the permit holder or applicant. Guarantor also expressly waives notice of amendments or modifications of the facility permit(s); and

(k). the wording of the corporate guarantee shall be as specified in Subparagraph B.8.i of this Section.

ii. A corporate guarantee may be used to satisfy the requirements of this Section only if the attorney general(s) or insurance commissioner(s) of the state in which the guarantor is incorporated, and the state in which the facility covered by the guarantee is located, has submitted a written statement to the Office of Environmental Services that a corporate guarantee is a legally valid and enforceable obligation in that state.

g. The use of a particular financial responsibility mechanism is subject to the approval of the administrative authority.

h. Permit holders of existing facilities must submit, on or before February 20, 1995, financial responsibility documentation that complies with the requirements of this Subsection. Applicants for permits for new facilities must submit evidence of financial assurance in accordance with this Section at least 60 days before the date on which sewage sludge, other materials, feedstock, or supplements are first received for processing.

B. Financial Responsibility for Closure and Post-Closure Care for a Commercial Preparer of Sewage Sludge

1. Permit holders or applicants have the following financial responsibilities for closure and post-closure care.

a. Permit holders or applicants shall establish and maintain financial assurance for closure and post-closure care.

b. The applicant or permit holder shall submit to the Office of Environmental Services the estimated closure date and the estimated cost of closure and post-closure care in accordance with the following procedures.

i. The applicant or permit holder must have a written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in these rules. The estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by the closure plan, and shall be based on the cost of hiring a third party to close the facility in accordance with the closure plan.

ii. The applicant or permit holder of a facility subject to post-closure monitoring or maintenance requirements must have a written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the provisions of these rules. The estimate of post-closure costs is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care

required, and shall be based on the cost of hiring a third party to conduct post-closure activities in accordance with the closure plan.

iii. The cost estimates must be adjusted within 30 days after each anniversary of the date on which the first cost estimate was prepared, on the basis of either the inflation factor derived from the Annual Implicit Price Deflator for Gross Domestic Product, as published by the U.S. Department of Commerce in its *Survey of Current Business* or a reestimation of the closure and post-closure costs in accordance with Clauses B.1.b.i-ii of this Section. The permit holder or applicant must revise the cost estimate whenever a change in the closure/post-closure plans increases or decreases the cost of the closure plan. The permit holder or applicant must submit a written notice of any such adjustment to the Office of Environmental Services within 15 days following such adjustment.

iv. For trust funds, the first payment must be at least equal to the current closure and post-closure cost estimate, divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each annual anniversary of the date of the first payment. The amount of each subsequent payment must be determined by subtracting the current value of the trust fund from the current closure and post-closure cost estimates and dividing the result by the number of years remaining in the pay-in period. The initial pay-in period is based on the estimated life of the facility.

2. Financial Assurance Mechanisms. The financial assurance mechanism must be one or a combination of the following: a trust fund, a financial guarantee bond ensuring closure funding, a performance bond, a letter of credit, an insurance policy, or the financial test. The financial assurance mechanism is subject to the approval of the administrative authority and must fulfill the following criteria.

a. Except when a financial test, trust fund, or certificate of insurance is used as the financial assurance mechanism, a standby trust fund naming the administrative authority as beneficiary must be established at the time of the creation of the financial assurance mechanism into which the proceeds of such mechanism could be transferred should such funds be necessary for either closure or post-closure of the facility, and a signed copy must be furnished to the administrative authority with the mechanism.

b. A permit holder or applicant may use a financial assurance mechanism specified in this Section for more than one facility, if all such facilities are located within the state of Louisiana and are specifically identified in the mechanism.

c. The amount covered by the financial assurance mechanism(s) must equal the total of the current closure and post-closure estimates for each facility covered.

d. When all closure and post-closure requirements have been satisfactorily completed, the administrative authority shall execute an approval to terminate the financial assurance mechanism(s).

3. Trust Funds. A permit holder or applicant may satisfy the requirements of this Section by establishing a closure trust fund that conforms to the following requirements and submitting an originally-signed duplicate

of the trust agreement to the Office of Environmental Services.

a. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

b. Trusts must be accomplished in accordance with and subject to the laws of the state of Louisiana. The beneficiary of the trust shall be the administrative authority.

c. Trust fund earnings may be used to offset required payments into the fund, to pay the fund trustee, or to pay other expenses of the funds, or may be reclaimed by the permit holder or applicant upon approval of the administrative authority.

d. The trust agreement must be accompanied by an affidavit certifying the authority of the individual signing the trust on behalf of the permit holder or applicant.

e. The permit holder or applicant may accelerate payments into the trust fund or deposit the full amount of the current closure cost estimate at the time the fund is established. The permit holder or applicant must, however, maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in Clause B.1.b.iv of this Section.

f. If the permit holder or applicant establishes a trust fund after having used one or more of the alternate mechanisms specified in this Section, his first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to the specifications of this Paragraph.

g. After the pay-in period is completed, whenever the current cost estimate changes, the permit holder must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the permit holder or applicant, within 60 days after the change in the cost estimate, must either deposit an amount into the fund that will make its value at least equal to the amount of the closure/post-closure cost estimate or it must estimate or obtain other financial assurance as specified in this Section to cover the difference.

h. After beginning final closure, a permit holder or any other person authorized by the permit holder to perform closure and/or post-closure may request reimbursement for closure and/or post-closure expenditures by submitting itemized bills to the Office of Environmental Services. Within 60 days after receiving bills for such activities, the administrative authority will determine whether the closure and/or post-closure expenditures are in accordance with the closure plan or otherwise justified, and if so, he or she will instruct the trustee to make reimbursement in such amounts as the administrative authority specifies in writing. If the administrative authority has reason to believe that the cost of closure and/or post-closure will be significantly greater than the value of the trust fund, he may withhold reimbursement for such amounts as he deems prudent until he determines that the permit holder is no longer required to maintain financial assurance.

i. The wording of the trust agreement shall be identical to the wording in LAC 33:IX.7395.Appendix D, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted. The trust agreement shall be accompanied by a formal

certification of acknowledgement, as in the example in LAC 33:IX.7395.Appendix D.

4. Surety Bonds. A permit holder or applicant may satisfy the requirements of this Subsection by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Environmental Services.

a. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, and be approved by the administrative authority.

b. The permit holder or applicant who uses a surety bond to satisfy the requirements of this Subsection must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the administrative authority. The wording of the standby trust fund shall be as specified in Subparagraph B.3.i of this Section.

c. The bond must guarantee that the operator will:

i. fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility;

ii. fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure or post-closure is issued; or

iii. provide alternate financial assurance, as specified in this Section, and obtain the administrative authority's written approval of the assurance provided within 90 days after receipt by both the permit holder and the administrative authority of a notice of cancellation of the bond from the surety.

d. Under the terms of the bond, the surety will become liable on the bond obligation when the permit holder fails to perform as guaranteed by the bond.

e. The penal sum of the bond must be at least equal to the current closure and post-closure cost estimates.

f. Whenever the current cost estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure estimate and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the administrative authority.

g. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the Office of Environmental Services. Cancellation may not occur, however, before 120 days have elapsed, beginning on the date that both the permit holder and the administrative authority have received the notice of cancellation, as evidenced by the return receipts.

h. The wording of the surety bond guaranteeing payment into a standby trust fund shall be identical to the wording in LAC 33:IX.7395.Appendix E, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

5. Performance Bonds. A permit holder or applicant may satisfy the requirements of this Subsection by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Environmental Services.

a. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, and be approved by the administrative authority.

b. The permit holder or applicant who uses a surety bond to satisfy the requirements of this Subsection must also provide to the administrative authority evidence of establishment of a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the administrative authority. The wording of the standby trust fund shall be as specified in Subparagraph B.3.i of this Section.

c. The bond must guarantee that the permit holder or applicant will:

i. perform final closure and post-closure in accordance with the closure plan and other requirements of the permit for the facility whenever required to do so; or

ii. provide alternate financial assurance, as specified in this Section, and obtain the administrative authority's written approval of the assurance provided within 90 days after the date both the permit holder and the administrative authority receive notice of cancellation of the bond from the surety.

d. Under the terms of the bond, the surety will become liable on the bond obligation when the permit holder fails to perform as guaranteed by the bond. Following a determination by the administrative authority that the permit holder has failed to perform final closure and post-closure in accordance with the closure plan and other permit requirements when required to do so, under the terms of the bond the surety will perform final closure and post-closure as guaranteed by the bond or will deposit the amount of the penal sum into the standby trust fund.

e. The penal sum of the bond must be at least equal to the current closure and post-closure cost estimates.

f. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Section. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate after written approval of the administrative authority.

g. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the Office of Environmental Services. Cancellation may not occur before 120 days have elapsed beginning on the date that both the permit holder and the administrative authority have received the notice of cancellation, as evidenced by the return receipts.

h. The wording of the performance bond shall be identical to the wording in LAC 33:IX.7395.Appendix F,

except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

6. Letter of Credit. A permit holder or applicant may satisfy the requirements of this Subsection by obtaining an irrevocable standby letter of credit that conforms to the following requirements and submitting the letter to the Office of Environmental Services.

a. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

b. A permit holder or applicant who uses a letter of credit to satisfy the requirements of this Subsection must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the administrative authority will be deposited by the issuing institution directly into the standby trust fund. The wording of the standby trust fund shall be as specified in Subparagraph B.3.i of this Section.

c. The letter of credit must be accompanied by a letter from the permit holder or applicant referring to the letter of credit by number, issuing institution, and date, and providing the following information:

i. the agency interest number;

ii. the site name;

iii. the facility name;

iv. the facility permit number; and

v. the amount of funds assured for closure and/or post closure of the facility by the letter of credit.

d. The letter of credit must be irrevocable and issued for a period of at least one year, unless, at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and Office of Environmental Services by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permit holder and the administrative authority have received the notice, as evidenced by the return receipts.

e. The letter of credit must be issued in an amount at least equal to the current closure and post-closure cost estimates.

f. Whenever the current cost estimates increase to an amount greater than the amount of the credit, the permit holder, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Subsection to cover the increase. Whenever the current cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure and post-closure cost estimates upon written approval of the administrative authority.

g. Following a determination by the administrative authority that the permit holder has failed to perform final closure or post-closure in accordance with the closure plan and other permit requirements when required to do so, the administrative authority may draw on the letter of credit.

h. The wording of the letter of credit shall be identical to the wording in LAC 33:IX.7395.Appendix G,

except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

7. Insurance. A permit holder or applicant may satisfy the requirements of this Subsection by obtaining insurance that conforms to the following requirements and submitting a certificate of such insurance to the Office of Environmental Services.

a. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess- or surplus-lines insurer in one or more states, and authorized to transact insurance business in the state of Louisiana.

b. The insurance policy must be issued for a face amount at least equal to the current closure and post-closure cost estimates.

c. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

d. The insurance policy must guarantee that funds will be available to close the facility and provide post-closure care once final closure occurs. The policy must also guarantee that, once final closure begins, the insurer will be responsible for paying out funds up to an amount equal to the face amount of the policy, upon the direction of the administrative authority, to such party or parties as the administrative authority specifies.

e. After beginning final closure, a permit holder or any other person authorized by the permit holder to perform closure and post-closure may request reimbursement for closure or post-closure expenditures by submitting itemized bills to the Office of Environmental Services. Within 60 days after receiving such bills, the administrative authority will determine whether the expenditures are in accordance with the closure plan or otherwise justified, and if so, he or she will instruct the insurer to make reimbursement in such amounts as the administrative authority specifies in writing.

f. The permit holder must maintain the policy in full force and effect until the administrative authority consents to termination of the policy by the permit holder.

g. Each policy must contain a provision allowing assignment of the policy to a successor permit holder. Such assignment may be conditional upon consent of the insurer, provided consent is not unreasonably refused.

h. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the permit holder and the Office of Environmental Services. Cancellation, termination, or failure to renew may not occur, however, before 120 days have elapsed, beginning on the date that both the administrative authority and the permit holder receive notice of cancellation, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur, and the policy will remain in full force and effect in the event that, on or before the date of expiration:

i. the administrative authority deems the facility abandoned;

ii. the permit is terminated or revoked or a new permit is denied;

iii. closure and/or post-closure is ordered;

iv. the permit holder is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

v. the premium due is paid.

i. Whenever the current cost estimate increases to an amount greater than the face amount of the policy, the permit holder, within 60 days after the increase, must either increase the face amount to at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Subsection to cover the increase. Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current closure and post-closure cost estimates following written approval by the administrative authority.

j. The wording of the certificate of insurance shall be identical to the wording in LAC 33:IX.7395.Appendix H, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

8. Financial Test. A permit holder, applicant, or parent corporation of the permit holder or applicant, which will be responsible for the financial obligations, may satisfy the requirements of this Section by demonstrating that he or she passes a financial test as specified in this Paragraph. The assets of the parent corporation of the applicant or permit holder shall not be used to determine whether the applicant or permit holder satisfies the financial test, unless the parent corporation has supplied a corporate guarantee as outlined in Paragraph A.2.f and/or B.8.i of this Section.

a. To pass this test, the permit holder, applicant, or parent corporation of the permit holder or applicant must meet either of the following criteria:

i. the permit holder, applicant, or parent corporation of the permit holder or applicant must have:

(a). tangible net worth of at least six times the sum of the current closure and post-closure estimates to be demonstrated by this test and the amount of liability coverage to be demonstrated by this test;

(b). tangible net worth of at least \$10 million; and

(c). assets in the United States amounting to either at least 90 percent of his total assets, or at least six times the sum of the current closure and post-closure estimates, to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test; or

ii. the permit holder, applicant, or parent corporation of the permit holder or applicant must have:

(a). a current rating for his most recent bond issuance of AAA, AA, A, or BBB, as issued by *Standard and Poor's*, or Aaa, Aa, or Baa, as issued by *Moody's*;

(b). tangible net worth of at least \$10 million; and

(c). assets in the United States amounting to either 90 percent of his total assets or at least six times the sum of the current closure and post-closure estimates, to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test.

b. To demonstrate that he or she meets this test, the permit holder, applicant, or parent corporation of the permit holder or applicant must submit the following three items to the Office of Environmental Services:

i. a letter signed by the chief financial officer of the permit holder, applicant, or parent corporation demonstrating and certifying the criteria in Subparagraph B.8.a of this Section and including the information required by Subparagraph B.8.d of this Section. If the financial test is provided to demonstrate both assurance for closure and/or post-closure care and liability coverage, a single letter to cover both forms of financial responsibility is required;

ii. a copy of the independent certified public accountant's (CPA's) report on the financial statements of the permit holder, applicant, or parent corporation of the permit holder or applicant for the latest completed fiscal year; and

iii. a special report from the independent CPA to the permit holder, applicant, or parent corporation of the permit holder or applicant stating that:

(a). the CPA has computed the data specified by the chief financial officer as having been derived from the independently audited, year-end financial statements with the amounts for the latest fiscal year in such financial statements; and

(b). in connection with that procedure, no matters came to his attention that caused him to believe that the specified data should be adjusted.

c. The administrative authority may disallow use of this test on the basis of the opinion expressed by the independent CPA in his report on qualifications based on the financial statements. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The administrative authority will evaluate other qualifications on an individual basis. The administrative authority may disallow the use of this test on the basis of the accessibility of the assets of the parent corporation (corporate guarantor), permit holder, or applicant. The permit holder, applicant, or parent corporation must provide evidence of insurance for the entire amount of required liability coverage, as specified in this Section, within 30 days after notification of disallowance.

d. The permit holder, applicant, or parent corporation (if a corporate guarantor) of the permit holder or applicant shall provide to the Office of Environmental Services a letter from the chief financial officer, the wording of which shall be identical to the wording in LAC 33:IX.7395.Appendix I, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted. The letter shall certify the following information:

i. a list of commercial facilities, whether in the state of Louisiana or not, owned or operated by the permit holder or applicant of the facility, for which financial assurance for liability coverage is demonstrated through the use of financial tests, including the amount of liability coverage;

ii. a list of commercial facilities, whether in the state of Louisiana or not, owned or operated by the permit holder or applicant, for which financial assurance for the closure or post-closure care is demonstrated through the use of a financial test or self-insurance by the permit holder or applicant, including the cost estimates for the closure and post-closure care of each facility;

iii. a list of the commercial facilities, whether in the state of Louisiana or not, owned or operated by any subsidiaries of the parent corporation for which financial assurance for closure and/or post-closure is demonstrated through the financial test or through use of self-insurance, including the current cost estimate for the closure or post-closure care for each facility and the amount of annual aggregate liability coverage for each facility; and

iv. a list of commercial facilities, whether in the state of Louisiana or not, for which financial assurance for closure or post-closure care is not demonstrated through the financial test, self-insurance, or other substantially equivalent state mechanisms, including the estimated cost of closure and post-closure of such facilities.

e. For the purposes of this Subsection the phrase *tangible net worth* shall mean the tangible assets that remain after liabilities have been deducted; such assets would not include intangibles such as good will and rights to patents or royalties.

f. The phrase *current closure and post-closure cost estimates*, as used in Subparagraph B.8.a of this Section, includes the cost estimates required to be shown in Subclause B.8.a.i.(a) of this Section.

g. After initial submission of the items specified in Subparagraph B.8.b of this Section, the permit holder, applicant, or parent corporation of the permit holder or applicant must send updated information to the Office of Environmental Services within 90 days after the close of each succeeding fiscal year. This information must include all three items specified in Subparagraph B.8.b of this Section.

h. The administrative authority may, on the basis of a reasonable belief that the permit holder, applicant, or parent corporation of the permit holder or applicant may no longer meet the requirements of Paragraph B.8 of this Section, require reports of financial condition at any time in addition to those specified in Subparagraph B.8.b of this Section. If the administrative authority finds, on the basis of such reports or other information, that the permit holder, applicant, or parent corporation of the permit holder or applicant no longer meets the requirements of Subparagraph B.8.b of this Section, the permit holder or applicant, or parent corporation of the permit holder or applicant must provide alternate financial assurance as specified in this Subsection within 30 days after notification of such a finding.

i. A permit holder or applicant may meet the requirements of Paragraph B.8 of this Section for closure and/or post-closure by obtaining a written guarantee, hereafter referred to as a *corporate guarantee*. The guarantor must be the parent corporation of the permit holder or applicant. The guarantor must meet the requirements and submit all information required for permit holders or applicants in Subparagraphs B.8.a-h of this Section and must comply with the terms of the corporate guarantee. The corporate guarantee must accompany the items sent to the administrative authority specified in Subparagraphs B.8.b and d of this Section. The wording of the corporate guarantee must be identical to the wording in LAC 33:IX.7395.Appendix J, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted. The terms of the corporate guarantee must

be in an authentic act signed and sworn by an authorized officer of the corporation before a notary public and must provide that:

i. the guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in Paragraph B.8 of this Section;

ii. the guarantor is the parent corporation of the permit holder or applicant of the commercial preparer of sewage sludge or land applier of biosolids to be covered by the guarantee, and the guarantee extends to certain facilities;

iii. *closure plans*, as used in the guarantee, refers to the plans maintained as required by the state of Louisiana commercial preparer of sewage sludge or land applier of biosolids rules and regulations for the closure and post-closure care of commercial preparers of sewage sludge facilities or commercial land appliers of biosolids sites, as identified in the guarantee;

iv. for value received from the permit holder or applicant, the guarantor guarantees to the Office of Environmental Services that the permit holder or applicant will perform closure, post-closure care, or closure and post-closure care of the facility or facilities listed in the guarantee, in accordance with the closure plan and other permit or regulatory requirements whenever required to do so. In the event that the permit holder or applicant fails to perform as specified in the closure plan, the guarantor shall do so or establish a trust fund as specified in Paragraph B.3 of this Section, in the name of the permit holder or applicant, in the amount of the current closure or post-closure cost estimates or as specified in Subparagraph B.1.b of this Section;

v. the guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial test criteria, the guarantor shall send within 90 days after the end of the fiscal year, by certified mail, notice to the Office of Environmental Services and to the permit holder or applicant that he intends to provide alternative financial assurance as specified in this Subsection, in the name of the permit holder or applicant, and that within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless the permit holder or applicant has done so;

vi. the guarantor agrees to notify the Office of Environmental Services by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;

vii. the guarantor agrees that within 30 days after being notified by the administrative authority of a determination that the guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure or post-closure care, he shall establish alternate financial assurance as specified in this Subsection in the name of the permit holder or applicant, unless the permit holder or applicant has done so;

viii. the guarantor agrees to remain bound under the guarantee, notwithstanding any or all of the following: amendment or modification of the closure plan, amendment or modification of the permit, extension or reduction of the time of performance of closure or post closure, or any other

modification or alteration of an obligation of the permit holder or applicant in accordance with these regulations;

ix. the guarantor agrees to remain bound under the guarantee for as long as the permit holder must comply with the applicable financial assurance requirements of this Subsection for the above-listed facilities, except that the guarantor may cancel this guarantee by sending notice by certified mail to the Office of Environmental Services and the permit holder or applicant. The cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the permit holder or applicant, as evidenced by the return receipts;

x. the guarantor agrees that if the permit holder or applicant fails to provide alternative financial assurance as specified in this Subsection, and to obtain written approval of such assurance from the administrative authority within 60 days after the administrative authority receives the guarantor's notice of cancellation, the guarantor shall provide such alternate financial assurance in the name of the owner or operator; and

xi. the guarantor expressly waives notice of acceptance of the guarantee by the administrative authority or by the permit holder. Guarantor also expressly waives notice of amendments or modifications of the closure plan and of amendments or modifications of the facility permit(s).

9. Local Government Financial Test. An owner or operator that satisfies the requirements of Subparagraphs B.9.a-c of this Section may demonstrate financial assurance up to the amount specified in Subparagraph B.9.d of this Section.

a. Financial Component

i. The owner or operator must satisfy the following conditions, as applicable:

(a). if the owner or operator has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, he must have a current rating of Aaa, Aa, A, or Baa, as issued by *Moody's*, or AAA, AA, A, or BBB, as issued by *Standard and Poor's*, on all such general obligation bonds; or

(b). the owner or operator must satisfy the ratio of cash plus marketable securities to total expenditures being greater than or equal to 0.05 and the ratio of annual debt service to total expenditures less than or equal to 0.20 based on the owner or operator's most recent audited annual financial statement.

ii. The owner or operator must prepare its financial statements in conformity with *Generally Accepted Accounting Principles* for governments and have his financial statements audited by an independent certified public accountant (or appropriate state agency).

iii. A local government is not eligible to assure its obligations under Paragraph B.9 of this Section if it:

(a). is currently in default on any outstanding general obligation bonds;

(b). has any outstanding general obligation bonds rated lower than Baa as issued by *Moody's* or BBB as issued by *Standard and Poor's*;

(c). operated at a deficit equal to 5 percent or more of total annual revenue in each of the past two fiscal years; or

(d). receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant (or appropriate state agency) auditing its financial statement as required under Clause B.9.a.ii of this Section. The administrative authority may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the administrative authority deems the qualification insufficient to warrant disallowance of use of the test.

iv. The following terms used in this Subsection are defined as follows.

(a). *Deficit*—total annual revenues minus total annual expenditures.

(b). *Total Revenues*—revenues from all taxes and fees, but not including the proceeds from borrowing or asset sales, excluding revenue from funds managed by local government on behalf of a specific third party.

(c). *Total Expenditures*—all expenditures, excluding capital outlays and debt repayment.

(d). *Cash Plus Marketable Securities*—all the cash plus marketable securities held by the local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

(e). *Debt Service*—the amount of principal and interest due on a loan in a given time period, typically the current year.

b. Public Notice Component. The local government owner or operator must place a reference to the closure and post-closure care costs assured through the financial test into its next comprehensive annual financial report (CAFR) after the effective date of this Section or prior to the initial receipt of sewage sludge, other feedstock, or supplements at the facility, whichever is later. Disclosure must include the nature and source of closure and post-closure care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date, and the estimated landfill life in years. For closure and post-closure costs, conformance with *Governmental Accounting Standards Board Statement 18* assures compliance with this public notice component.

c. Recordkeeping and Reporting Requirements

i. The local government owner or operator must place the following items in the facility's operating record:

(a). a letter signed by the local government's chief financial officer that lists all the current cost estimates covered by a financial test, as described in Subparagraph B.9.d of this Section. It must provide evidence that the local government meets the conditions of Clauses B.9.a.i-iii of this Section, and certify that the local government meets the conditions of Clauses B.9.a.i-iii and Subparagraphs B.9.b and d of this Section;

(b). the local government's independently audited year-end financial statements for the latest fiscal year (except for local governments where audits are required every two years, and unaudited statements may be used in years when audits are not required), including the unqualified opinion of the auditor, who must be an independent certified public accountant or an appropriate state agency that conducts equivalent comprehensive audits;

(c). a report to the local government from the local government's independent certified public accountant or the appropriate state agency based on performing an agreed-upon procedures engagement relative to the financial ratios required by Subclause B.9.a.i.(b) of this Section, if applicable, and the requirements of Clause B.9.a.ii and Subclauses B.9.a.iii.(c)-(d) of this Section. The certified public accountant or state agency's report should state the procedures performed and the certified public accountant or state agency's findings; and

(d). a copy of the comprehensive annual financial report (CAFR) used to comply with Subparagraph B.9.b of this Section (certification that the requirements of *General Accounting Standards Board Statement 18* have been met).

ii. The items required in Clause B.9.c.i of this Section must be placed in the facility operating record, in the case of closure and post-closure care, either before the effective date of this Section or prior to the initial receipt of sewage sludge, other feedstock, or supplements at the facility, whichever is later.

iii. After the initial placement of the items in the facility's operating record, the local government owner or operator must update the information and place the updated information in the operating record within 180 days following the close of the owner or operator's fiscal year.

iv. The local government owner or operator is no longer required to meet the requirements of Subparagraph B.9.c of this Section when:

(a). the owner or operator substitutes alternate financial assurance, as specified in this Section; or

(b). the owner or operator is released from the requirements of this Section in accordance with Subsection A or B of this Section.

v. A local government must satisfy the requirements of the financial test at the close of each fiscal year. If the local government owner or operator no longer meets the requirements of the local government financial test, it must, within 210 days following the close of the owner or operator's fiscal year, obtain alternative financial assurance that meets the requirements of this Section, place the required submissions for that assurance in the operating record, and notify the Office of Environmental Services that the owner or operator no longer meets the criteria of the financial test and that alternate assurance has been obtained.

vi. The administrative authority, based on a reasonable belief that the local government owner or operator may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government at any time. If the administrative authority finds, on the basis of such reports or other information, that the owner or operator no longer meets the local government financial test, the local government must provide alternate financial assurance in accordance with this Section.

d. Calculation of Costs to be Assured. The portion of the closure, post-closure, and corrective action costs for which an owner or operator can assure under Paragraph B.9 of this Section is determined as follows:

i. if the local government owner or operator does not assure other environmental obligations through a

financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43 percent of the local government's total annual revenue; or

ii. if the local government assures other environmental obligations through a financial test, including those associated with UIC facilities under 40 CFR 144.62, petroleum underground storage tank facilities under 40 CFR Part 280, PCB storage facilities under 40 CFR Part 761, and hazardous waste treatment, storage, and disposal facilities under 40 CFR Parts 264 and 265, or corresponding state programs, it must add those costs to the closure, post-closure, and corrective action costs it seeks to assure under Paragraph B.9 of this Section, and the total that may be assured must not exceed 43 percent of the local government's total annual revenue; and

iii. the owner or operator must obtain an alternate financial assurance instrument for those costs that exceed the limits set in Clauses B.9.d.i-ii of this Section.

10. Local Government Guarantee. An owner or operator may demonstrate financial assurance for closure and post-closure, as required by Subsections A and B of this Section, by obtaining a written guarantee provided by a local government. The guarantor must meet the requirements of the local government financial test in Paragraph B.9 of this Section, and must comply with the terms of a written guarantee.

a. Terms of the Written Guarantee. The guarantee must be effective before the initial receipt of sewage sludge, other material, feedstock, or supplements or before the effective date of this Section, whichever is later, in the case of closure and post-closure care. The guarantee must provide that:

i. if the owner or operator fails to perform closure and post-closure care, of a facility covered by the guarantee, the guarantor will:

(a). perform, or pay a third party to perform, closure and post-closure care as required; or

(b). establish a fully funded trust fund as specified in Paragraph B.3 of this Section in the name of the owner or operator;

ii. the guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Office of Environmental Services. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts; and

iii. if a guarantee is canceled, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the administrative authority, obtain alternate financial assurance, place evidence of that alternate financial assurance in the facility operating record, and notify the Office of Environmental Services. If the owner or operator fails to provide alternate financial assurance within the 90-day period, then the guarantor must provide that alternate assurance within 120 days following the guarantor's notice of cancellation, place evidence of the alternate assurance in the facility operating record, and notify the Office of Environmental Services.

b. Recordkeeping and Reporting

i. The owner or operator must place a certified copy of the guarantee, along with the items required under Subparagraph B.9.c of this Section, into the facility's operating record before the initial receipt of sewage sludge, other material, feedstock, or supplements or before the effective date of this Section, whichever is later, in the case of closure or post-closure care.

ii. The owner or operator is no longer required to maintain the items specified in Clause B.10.b.i of this Section when:

(a). the owner or operator substitutes alternate financial assurance as specified in this Section; or

(b). the owner or operator is released from the requirements of this Section in accordance with Subsections A and B of this Section.

iii. If a local government guarantor no longer meets the requirements of Paragraph B.9 of this Section, the owner or operator must, within 90 days, obtain alternate assurance, place evidence of the alternate assurance in the facility operating record, and notify the Office of Environmental Services. If the owner or operator fails to obtain alternate financial assurance within that 90-day period, the guarantor must provide that alternate assurance within the next 30 days.

11. Use of Multiple Mechanisms. An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action, as required by Subsections A and B of this Section, by establishing more than one financial mechanism per facility, except that mechanisms guaranteeing performance, rather than payment, may not be combined with other instruments. The mechanisms must be as specified in Paragraphs B.3-8 of this Section, except that financial assurance for an amount at least equal to the current cost estimate for closure, post-closure care, and/or corrective action may be provided by a combination of mechanisms, rather than a single mechanism.

12. Discounting. The administrative authority may allow discounting of closure and post-closure cost estimates in this Subsection up to the rate of return for essentially risk-free investments, net of inflation, under the following conditions:

a. the administrative authority determines that cost estimates are complete and accurate and the owner or operator has submitted a statement from a registered professional engineer to the Office of Environmental Services so stating;

b. the state finds the facility in compliance with applicable and appropriate permit conditions;

c. the administrative authority determines that the closure date is certain and the owner or operator certifies that there are no foreseeable factors that will change the estimate of site life; and

d. discounted cost estimates must be adjusted annually to reflect inflation and years of remaining life.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§7309. Pathogens and Vector Attraction Reduction
[Formerly §6909]

A. Scope. This Section contains the following:

1. the requirements for a sewage sludge to be classified either as Exceptional Quality or Class B biosolids with respect to pathogens;

2. the site restrictions for land on which Class B biosolids are applied; and

3. the alternative vector attraction reduction requirements for biosolids that are applied to the land.

B. Special Definitions. In addition to the terms referenced and defined at LAC 33:IX.7301.B, the following definitions apply to this Section.

Aerobic Digestion—the biochemical decomposition of organic matter in sewage sludge into carbon dioxide and water by microorganisms in the presence of air.

Anaerobic Digestion—the biochemical decomposition of organic matter in sewage sludge into methane gas and carbon dioxide by microorganisms in the absence of air.

Density of Microorganisms—the number of microorganisms per unit mass of total solids (dry weight) in the sewage sludge.

Land with a High Potential for Public Exposure—land that the public uses frequently. This includes, but is not limited to, a public contact site and a reclamation site located in a populated area (e.g., a construction site located in a city).

Land with a Low Potential for Public Exposure—land that the public uses infrequently. This includes, but is not limited to, agricultural land, forest, and a reclamation site located in an unpopulated area (e.g., a strip mine located in a rural area).

Pathogenic Organisms—disease-causing organisms. These include, but are not limited to, certain bacteria, protozoa, viruses, and viable helminth ova.

pH—the logarithm of the reciprocal of the hydrogen ion concentration measured at 25°C or measured at another temperature and then converted to an equivalent value at 25°C.

Specific Oxygen Uptake Rate (SOUR)—the mass of oxygen consumed per unit time per unit mass of total solids (dry weight basis) in the sewage sludge.

Total Solids—the materials in sewage sludge that remain as residue when the sewage sludge is dried to a constant weight at 103° to 105°C.

Unstabilized Solids—organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.

Vector Attraction—the characteristic of sewage sludge that attracts rodents, flies, mosquitoes, or other organisms capable of transporting infectious agents.

Volatile Solids—the amount of the total solids in sewage sludge lost when the sewage sludge is combusted at 550°C in the presence of excess air.

C. Pathogens

1. Exceptional Quality Biosolids

a. The requirement in Subparagraph C.1.b of this Section, and the requirements in Subparagraph C.1.c, d, e, f, g, or h of this Section, must be met for biosolids classified as Exceptional Quality biosolids with respect to pathogens.

b. The Exceptional Quality biosolids pathogen requirements in Subparagraphs C.1.c-h of this Section must

be met either prior to meeting or at the same time that the vector attraction reduction requirements in Subsection D of this Section, except the vector attraction reduction requirements in Subparagraphs D.2.d-e.ii of this Section, are met.

c. Exceptional Quality Biosolids—Alternative 1

i. Either the density of fecal coliform in the biosolids shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp.* bacteria in the biosolids shall be less than 3 Most Probable Number per 4 grams of total solids (dry weight basis) at the time the biosolids are used or disposed, at the time the biosolids are prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B.

ii. The temperature of the sewage sludge that is used or disposed shall be maintained at a specific value for a period of time, as follows.

(a). When the percent solids of the sewage sludge is 7 percent or higher, the temperature of the sewage sludge shall be 50°C or higher, the time period shall be 20 minutes or longer, and the temperature and time period shall be determined using Equation (2), except when small particles of sewage sludge are heated by either warmed gases or an immiscible liquid.

$$D = \frac{131,700,000}{10^{0.1400t}} \quad \text{Equation (2)}$$

where:

D = time in days

t = temperature in degrees Celsius

(b). When the percent solids of the sewage sludge is 7 percent or higher and small particles of sewage sludge are heated by either warmed gases or an immiscible liquid, the temperature of the sewage sludge shall be 50°C or higher, the time period shall be 15 seconds or longer, and the temperature and time period shall be determined using Equation (2).

(c). When the percent solids of the sewage sludge is less than 7 percent and the time period is at least 15 seconds, but less than 30 minutes, the temperature and time period shall be determined using Equation (2).

(d). When the percent solids of the sewage sludge is less than 7 percent, the temperature of the sewage sludge is 50°C or higher, and the time period is 30 minutes or longer, the temperature and time period shall be determined using Equation (3).

$$D = \frac{50,070,000}{10^{0.1400t}} \quad \text{Equation (3)}$$

where:

D = time in days

t = temperature in degrees Celsius

d. Exceptional Quality Biosolids—Alternative 2

i. Either the density of fecal coliform in the biosolids shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp.* bacteria in the biosolids shall be less than 3 Most Probable Number per 4 grams of total solids (dry weight basis) at the time the biosolids are used or disposed,

at the time the biosolids are prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B.

ii. pH and Temperature Standards

(a). The pH of the sewage sludge that is used or disposed shall be raised to above 12 and shall remain above 12 for 72 hours.

(b). The temperature of the sewage sludge shall be above 52°C for 12 hours or longer during the period that the pH of the sewage sludge is above 12.

(c). At the end of the 72-hour period during which the pH of the sewage sludge is above 12, the sewage sludge shall be air dried to achieve a percent solids in the sewage sludge greater than 50 percent.

e. Exceptional Quality Biosolids—Alternative 3

i. Either the density of fecal coliform in the biosolids shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp.* bacteria in the biosolids shall be less than 3 Most Probable Number per 4 grams of total solids (dry weight basis) at the time the biosolids are used or disposed, at the time the biosolids are prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B.

ii. The sewage sludge shall be analyzed prior to pathogen treatment to determine whether the sewage sludge contains enteric viruses.

(a). When the density of enteric viruses in the sewage sludge prior to pathogen treatment is less than 1 Plaque-forming Unit per 4 grams of total solids (dry weight basis), the sewage sludge is Exceptional Quality biosolids with respect to enteric viruses until the next monitoring episode for the sewage sludge.

(b). When the density of enteric viruses in the sewage sludge prior to pathogen treatment is equal to or greater than 1 Plaque-forming Unit per 4 grams of total solids (dry weight basis), the sewage sludge is Exceptional Quality biosolids with respect to enteric viruses when the density of enteric viruses in the sewage sludge after pathogen treatment is less than 1 Plaque-forming Unit per 4 grams of total solids (dry weight basis) and when the values or ranges of values for the operating parameters for the pathogen treatment process that produces the sewage sludge that meets the enteric virus density requirement are documented.

(c). After the enteric virus reduction in Subclause C.1.e.ii.(b) of this Section is demonstrated for the pathogen treatment process, the sewage sludge continues to be Exceptional Quality biosolids with respect to enteric viruses when the values for the pathogen treatment process operating parameters are consistent with the values or ranges of values documented in Subclause C.1.e.ii.(b) of this Section.

iii. The sewage sludge shall be analyzed prior to pathogen treatment to determine whether the sewage sludge contains viable helminth ova.

(a). When the density of viable helminth ova in the sewage sludge prior to pathogen treatment is less than 1 per 4 grams of total solids (dry weight basis), the sewage sludge is Exceptional Quality biosolids with respect to viable helminth ova until the next monitoring episode for the sewage sludge.

(b). When the density of viable helminth ova in the sewage sludge prior to pathogen treatment is equal to or greater than 1 per 4 grams of total solids (dry weight basis), the sewage sludge is Exceptional Quality biosolids with respect to viable helminth ova when the density of viable helminth ova in the sewage sludge after pathogen treatment is less than 1 per 4 grams of total solids (dry weight basis) and when the values or ranges of values for the operating parameters for the pathogen treatment process that produces the sewage sludge that meets the viable helminth ova density requirement are documented.

(c). After the viable helminth ova reduction in Subclause C.1.e.iii.(b) of this Section is demonstrated for the pathogen treatment process, the sewage sludge continues to be Exceptional Quality biosolids with respect to viable helminth ova when the values for the pathogen treatment process operating parameters are consistent with the values or ranges of values documented in Subclause C.1.e.iii.(b) of this Section.

f. Exceptional Quality Biosolids—Alternative 4

i. Either the density of fecal coliform in the biosolids shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp.* bacteria in the biosolids shall be less than 3 Most Probable Number per 4 grams of total solids (dry weight basis) at the time the biosolids are used or disposed, at the time the biosolids are prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B.

ii. The density of enteric viruses in the biosolids shall be less than 1 Plaque-forming Unit per 4 grams of total solids (dry weight basis) at the time the biosolids are used or disposed, at the time the biosolids are prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements in LAC 33:IX.7303.A.2.a and 3.a, unless otherwise specified by the permitting authority.

iii. The density of viable helminth ova in the biosolids shall be less than 1 per 4 grams of total solids (dry weight basis) at the time the biosolids are used or disposed, at the time the biosolids are prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B.

g. Exceptional Quality Biosolids—Alternative 5

i. Either the density of fecal coliform in the biosolids shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp.* bacteria in the biosolids shall be less than 3 Most Probable Number per 4 grams of total solids (dry

weight basis) at the time the biosolids are used or disposed, at the time the biosolids are prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B.

ii. Sewage sludge that is used or disposed shall be treated in one of the Processes to Further Reduce Pathogens described in LAC 33:IX.7399.Appendix B.

h. Exceptional Quality Biosolids—Alternative 6

i. Either the density of fecal coliform in the biosolids shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp.* bacteria in the biosolids shall be less than 3 Most Probable Number per 4 grams of total solids (dry weight basis) at the time the biosolids are used or disposed, at the time the biosolids are prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B.

ii. Sewage sludge that is used or disposed shall be treated in a process that is equivalent to a Process to Further Reduce Pathogens that has been approved by the Environmental Protection Agency's (EPA's) Pathogen Equivalency Committee.

iii. Requests for approval of alternative innovative processes, as a process that is equivalent to a Process to Further Reduce Pathogens, that have not yet been approved by the EPA's Pathogen Equivalency Committee shall initially be submitted to the administrative authority. The administrative authority shall then work with the EPA's Pathogen Equivalency Committee on the proper procedures for EPA's review of the request.

2. Class B Biosolids

a. The requirements in Subparagraph C.2.b, c, or d of this Section must be met for biosolids classified as Class B biosolids with respect to pathogens. The site restrictions in Subparagraph C.2.e of this Section must be met when biosolids that meet the Class B biosolids pathogen requirements in Subparagraph C.2.b, c, or d of this Section are applied to the land.

b. Class B Biosolids—Alternative 1

i. Seven representative samples of the biosolids that are used or disposed shall be collected.

ii. The geometric mean of the density of fecal coliform in the samples required by Clause C.2.b.i of this Section shall be less than either 2,000,000 Most Probable Number per gram of total solids (dry weight basis) or 2,000,000 Colony Forming Units per gram of total solids (dry weight basis).

c. Class B Biosolids—Alternative 2. Biosolids that are used or disposed shall be treated in one of the Processes to Significantly Reduce Pathogens described in LAC 33:IX.7399.Appendix L.

d. Class B Biosolids—Alternative 3. Biosolids that are used or disposed shall be treated in a process that is equivalent to a Process to Significantly Reduce Pathogens that has been approved by the EPA's Pathogen Equivalency Committee. Requests for approval of alternative innovative

processes, as a process that is equivalent to a Process to Further Reduce Pathogens, that have not yet been approved by the EPA's Pathogen Equivalency Committee shall initially be submitted to the administrative authority. The administrative authority shall then work with the EPA's Pathogen Equivalency Committee on the proper procedures for EPA's review of the request.

e. Site Restrictions

i. Food crops with harvested parts that touch the biosolids/soil mixture and are totally above the land surface shall not be harvested for 14 months after application of biosolids.

ii. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of biosolids when the biosolids remain on the land surface for four months or longer prior to incorporation into the soil.

iii. Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of biosolids when the biosolids remain on the land surface for less than four months prior to incorporation into the soil.

iv. Food crops, feed crops, and fiber crops shall not be harvested for 30 days after application of biosolids.

v. Animals shall not be grazed on the land for 30 days after application of biosolids.

vi. Turf grown on land where biosolids are applied shall not be harvested for one year after application of the biosolids when the harvested turf is placed on either land with a high potential for public exposure or a lawn, unless otherwise specified by the permitting authority.

vii. Public access to land with a high potential for public exposure shall be restricted for one year after application of biosolids, by means approved by the administrative authority.

viii. Public access to land with a low potential for public exposure shall be restricted for 30 days after application of biosolids, by means approved by the administrative authority.

D. Vector Attraction Reduction

1. Land Application Requirements

a. One of the vector attraction reduction requirements in Subparagraphs D.2.a-j of this Section shall be met when bulk biosolids are applied to agricultural land, forest, a public contact site, or a reclamation site.

b. One of the vector attraction reduction requirements in Subparagraphs D.2.a-h of this Section shall be met when bulk biosolids are applied to a lawn or a home garden.

c. One of the vector attraction reduction requirements in Subparagraphs D.2.a-h of this Section shall be met when biosolids are sold or given away in a bag or other container for application to the land.

2. Procedures to Attain Vector Attraction Reduction for Land Application

a. Volatile Solids Reduction

i. The mass of volatile solids in the biosolids shall be reduced by a minimum of 38 percent (see calculation procedures in *Environmental Regulations and Technology—Control of Pathogens and Vector Attraction in Sewage Sludge*, EPA-625/R-92/013, 1992, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268).

ii. When the 38 percent volatile solids reduction requirement in Clause D.2.a.i of this Section cannot be met for an anaerobically digested sewage sludge, vector attraction reduction can be demonstrated by digesting a portion of the previously digested sewage sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30° and 37°C. When, at the end of the 40 days, the volatile solids in the sewage sludge at the beginning of that period is reduced by less than 17 percent, vector attraction reduction is achieved.

iii. When the 38 percent volatile solids reduction requirement in Clause D.2.a.i of this Section cannot be met for an aerobically digested sewage sludge, vector attraction reduction can be demonstrated by digesting a portion of the previously digested sewage sludge that has a percent solids of 2 percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20°C. When at the end of the 30 days, the volatile solids in the sewage sludge at the beginning of that period is reduced by less than 15 percent, vector attraction reduction is achieved.

b. Specific Oxygen Uptake Rate (SOUR). The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20°C.

c. Aerobic Treatment. Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40°C and the average temperature of the sewage sludge shall be higher than 45°C.

d. Alkaline Treatment. The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for two hours and then at 11.5 or higher for an additional 22 hours.

e. Percent Solids. In order to attain vector attraction reduction through percent solids, either of the following must be met:

i. the percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75 percent based on the moisture content and total solids prior to mixing with other materials; or

ii. the percent solids of sewage sludge that does contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90 percent based on the moisture content and total solids prior to mixing with other materials.

f. Injection of Biosolids

i. Biosolids shall be injected below the surface of the land.

ii. No significant amount of biosolids shall be present on the land surface within one hour after the biosolids are injected.

iii. When the biosolids that are injected below the surface of the land are Exceptional Quality biosolids with respect to pathogens, the biosolids shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process.

g. Incorporation of Biosolids

i. Biosolids applied to the land surface shall be incorporated into the soil within six hours after application

to the land, unless otherwise specified by the permitting authority.

ii. When biosolids that are incorporated into the soil are Exceptional Quality biosolids with respect to pathogens, the biosolids shall be applied to the land within eight hours after being discharged from the pathogen treatment process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§7311. Incineration [Formerly §6911]

A. Applicability

1. This Section applies to a person who fires only sewage sludge or sewage sludge and *auxiliary fuel*, as defined in Subsection B of this Section, in a sewage sludge incinerator; to a *sewage sludge incinerator*, as defined in Subsection B of this Section; and to sewage sludge or sewage sludge and auxiliary fuel fired in a sewage sludge incinerator.

2. This Section applies to the exit gas from a sewage sludge incinerator stack.

B. Special Definitions. All terms not defined below shall have the meaning given them in LAC 33:IX.7301.B and in LAC 33:III.111.

Air Pollution Control Device—one or more processes used to treat the exit gas from a sewage sludge incinerator stack.

Auxiliary Fuel—fuel used to augment the fuel value of sewage sludge. This includes, but is not limited to, natural gas, fuel oil, coal, gas generated during anaerobic digestion of sewage sludge, and municipal solid waste (not to exceed 30 percent of the dry weight of sewage sludge and auxiliary fuel together). Hazardous wastes are not auxiliary fuel.

Average Daily Concentration—the arithmetic mean of the concentration of a pollutant in milligrams per kilogram of sewage sludge (dry weight basis) in the samples collected and analyzed in a month.

Control Efficiency—the mass of a pollutant in the sewage sludge fed to an incinerator minus the mass of that pollutant in the exit gas from the incinerator stack divided by the mass of the pollutant in the sewage sludge fed to the incinerator.

Dispersion Factor—the ratio of the increase in the ground level ambient air concentration for a pollutant at or beyond the property line of the site where the sewage sludge incinerator is located to the mass emission rate for the pollutant from the incinerator stack.

Fluidized Bed Incinerator—an enclosed device in which organic matter and inorganic matter in sewage sludge are combusted in a bed of particles suspended in the combustion chamber gas.

Hourly Average—the arithmetic mean of all measurements, taken during an hour. At least two measurements must be taken during the hour.

Incineration—the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.

Incinerator Operating Combustion Temperature—the arithmetic mean of the temperature readings in the hottest zone of the furnace recorded in a day (24 hours) when the

temperature is averaged and recorded at least hourly during the hours the incinerator operates in a day.

Monthly Average—the arithmetic mean of the hourly averages for the hours a sewage sludge incinerator operates during the month.

Performance Test Combustion Temperature—the arithmetic mean of the average combustion temperature in the hottest zone of the furnace for each of the runs in a performance test.

Risk Specific Concentration—the allowable increase in the average daily ground level ambient air concentration for a pollutant from the incineration of sewage sludge at or beyond the property line of the site where the sewage sludge incinerator is located.

Sewage Sludge Feed Rate—either the average daily amount of sewage sludge fired in all sewage sludge incinerators within the property line of the site where the sewage sludge incinerators are located for the number of days in a 365-day period that each sewage sludge incinerator operates, or the average daily design capacity for all sewage sludge incinerators within the property line of the site where the sewage sludge incinerators are located.

Sewage Sludge Incinerator—an enclosed device in which only sewage sludge or sewage sludge and auxiliary fuel are fired.

Stack Height—the difference between the elevation of the top of a sewage sludge incinerator stack and the elevation of the ground at the base of the stack when the difference is equal to or less than 214 feet (65 meters). When the difference is greater than 214 feet (65 meters), stack height is the creditable stack height determined in accordance with LAC 33:III.921.

Standard—a standard of performance proposed or promulgated under this Chapter.

Stationary Source—any building, structure, facility, or installation that emits or may emit any air pollutant.

Total Hydrocarbons—the organic compounds in the exit gas from a sewage sludge incinerator stack measured using a flame ionization detection instrument referenced to propane.

Wet Electrostatic Precipitator—an air pollution control device that uses both electrical forces and water to remove pollutants in the exit gas from a sewage sludge incinerator stack.

Wet Scrubber—an air pollution control device that uses water to remove pollutants in the exit gas from a sewage sludge incinerator stack.

C. General Requirements

1. No person shall fire sewage sludge or sewage sludge and auxiliary fuel in a sewage sludge incinerator except in compliance with the requirements in this Section.

2. Performance Tests for New Stationary Sources

a. Within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial start-up of such facility and at such other times as may be required by the administrative authority, the owner or operator of such facility shall conduct performance test(s) and furnish the administrative authority a written report of the results of such performance test(s).

b. Performance tests shall be conducted and data reduced in accordance with the test methods and procedures

contained for each applicable requirement in Subsections D, E, and F of this Section, unless the administrative authority:

i. specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;

ii. approves the use of an equivalent method;

iii. approves the use of an alternative method the results of which have been determined by the administrative authority to be adequate for indicating whether a specific source is in compliance;

iv. waives the requirement for performance tests because the owner or operator of a source has demonstrated by other means, to the administrative authority's satisfaction, that the affected facility is in compliance with the standard; or

v. approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors. Nothing in this Subparagraph shall be construed to abrogate the administrative authority's right to require additional testing if deemed necessary for proper determination of the standard of performance of the new stationary source.

c. Performance tests shall be conducted under such conditions as the administrative authority shall specify to the plant operator based on representative performance of the affected facility. The owner or operator shall make available to the administrative authority such records as may be necessary to determine the conditions of the performance tests. Operations during periods of start-up, shutdown, and malfunction shall not constitute representative conditions for the purpose of a performance test nor shall emissions in excess of the level of the applicable emission limit during periods of start-up, shutdown, and malfunction be considered a violation of the applicable emission limit unless otherwise specified in the applicable standard.

d. The owner or operator of an affected facility shall provide the administrative authority at least 30 days prior notice of any performance test, except as otherwise specified in this Subsection, to afford the administrative authority the opportunity to have an observer present. If after 30 days notice for an initially scheduled performance test, there is a delay (due to operational problems, etc.) in conducting the scheduled performance test, the owner or operator of an affected facility shall notify the administrative authority as soon as possible of any delay in the original test date either by providing at least seven days prior notice of the rescheduled date of the performance test or by arranging a rescheduled date with the administrative authority by mutual agreement.

e. The owner or operator of an affected facility shall provide, or cause to be provided, performance testing facilities as follows:

i. sampling ports adequate for test methods applicable to such facility, including:

(a) constructing the air pollution control system such that volumetric flow rates and pollutant emission rates can be accurately determined by applicable test methods and procedures; and

(b) providing a stack or duct free of cyclonic flow during performance tests, as demonstrated by applicable test methods and procedures;

ii. safe sampling platform(s);

iii. safe access to sampling platform(s); and

iv. utilities for sampling and testing equipment.

f. Unless otherwise specified in the applicable parts of this Paragraph, each performance test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard, the arithmetic means of results of the three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the three runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the owner's or operator's control, compliance may, upon the administrative authority's approval, be determined using the arithmetic mean of the results of the two other runs.

3. In conducting the performance tests required in Paragraph C.2 of this Section, the owner or operator shall use as reference methods and procedures the test methods referenced in LAC 33:IX.7301.I or other methods and procedures as specified in this Section, except as provided for in Subparagraph C.2.b of this Section.

4. The owner or operator of any sewage sludge incinerator subject to the provisions of this Chapter shall conduct a performance test during which the monitoring and recording devices required under Paragraphs F.2, 4, and 6, Subparagraph F.8.a, and Paragraph F.9 of this Section are installed and operating and for which the sampling and analysis procedures required under Subparagraph G.1.d of this Section are performed as follows.

a. For incinerators that commenced construction or modification:

i. on or before April 18, 1986, the performance test shall be conducted within 360 days of the effective date of these regulations, unless the monitoring and recording devices required under Paragraphs F.2, 4, and 6, Subparagraph F.8.a, and Paragraph F.9 of this Section were installed and operating and the sampling and analysis procedures required under Subparagraph G.1.d of this Section were performed during the most recent performance test and a record of the measurements taken during the performance test is available for review by the administrative authority; and

ii. on or after the effective date of these regulations, the date of the performance test shall be determined by the requirements in Paragraph C.2 of this Section.

b. The owner or operator shall provide the administrative authority at least 30 days prior notice of the performance test to afford the administrative authority the opportunity to have an observer present.

5. The owner or operator of any sewage sludge incinerator, other than a multiple hearth, fluidized bed, or electric incinerator or any sewage sludge incinerator equipped with a control device other than a wet scrubber, shall submit a plan to the administrative authority for approval for monitoring and recording incinerator and control device operation parameters. The plan shall be submitted to the administrative authority as follows:

a. no later than 90 days after October 6, 1988, for sources that have provided notification of commencement of construction prior to October 6, 1988;

b. no later than 90 days after the notification of commencement of construction, for sources that provide notification of commencement of construction on or after October 6, 1988; and

c. at least 90 days prior to the date on which the new control device becomes operative for sources switching to a control device other than a wet scrubber.

D. Pollutant Limits

1. Firing of sewage sludge in a sewage sludge incinerator shall not violate the requirements in the national emission standard for beryllium in Subpart C of 40 CFR Part 61 (as incorporated by reference at LAC 33:III.5116).

2. Firing of sewage sludge in a sewage sludge incinerator shall not violate the requirements in the national emission standard for mercury in Subpart E of 40 CFR Part 61 (as incorporated by reference at LAC 33:III.5116).

3. Pollutant Limit—Lead

a. The average daily concentration for lead in sewage sludge fed to a sewage sludge incinerator shall not exceed the concentration calculated using Equation (4).

$$C = \frac{0.1 \times NAAQS \times 86,400}{DF \times (1 - CE) \times SF} \quad \text{Equation (4)}$$

where:

C = average daily concentration of lead in sewage sludge
 $NAAQS$ = national Ambient Air Quality Standard for lead in micrograms per cubic meter
 DF = dispersion factor in micrograms per cubic meter per gram per second
 CE = sewage sludge incinerator control efficiency for lead in hundredths
 SF = sewage sludge feed rate in metric tons per day (dry weight basis)

b. The dispersion factor (DF) in Equation (4) shall be determined from an air dispersion model in accordance with Paragraph D.5 of this Section.

i. When the sewage sludge stack height is 214 feet (65 meters) or less, the actual sewage sludge incinerator stack height shall be used in the air dispersion model to determine the dispersion factor (DF) for Equation (4).

ii. When the sewage sludge incinerator stack height exceeds 214 feet (65 meters), the creditable stack height shall be determined in accordance with LAC 33:III.921, and the creditable stack height shall be used in the air dispersion model to determine the dispersion factor (DF) for Equation (4).

c. The control efficiency (CE) for Equation (4) shall be determined from a performance test of the sewage sludge incinerator in accordance with Paragraph D.5 of this Section.

4. Pollutant Limit—Arsenic, Cadmium, Chromium, and Nickel

a. The average daily concentration for arsenic, cadmium, chromium, and nickel in sewage sludge fed to a sewage sludge incinerator each shall not exceed the concentration calculated using Equation (5).

$$C = \frac{RSC \times 86,400}{DF \times (1 - CE) \times SF} \quad \text{Equation (5)}$$

where:

C = average daily concentration of arsenic, cadmium, chromium, or nickel in sewage sludge
 CE = sewage sludge incinerator control efficiency for arsenic, cadmium, chromium, or nickel in hundredths

- DF* = dispersion factor in micrograms per cubic meter per gram per second
RSC = risk-specific concentration for arsenic, cadmium, chromium, or nickel in micrograms per cubic meter
SF = sewage sludge feed rate in metric tons per day (dry weight basis)

b. The risk-specific concentrations for arsenic, cadmium, and nickel used in Equation (5) shall be obtained from Table 1 of LAC 33:IX.7311.D.

Table 1 of LAC 33:IX.7311.D	
Risk-Specific Concentration for Arsenic, Cadmium, and Nickel	
Pollutant	Risk-Specific Concentration (micrograms per cubic meter)
Arsenic	0.023
Cadmium	0.057
Nickel	2.0

c. The risk-specific concentration for chromium used in Equation (5) shall be obtained from Table 2 of LAC 33:IX.7311.D or shall be calculated using Equation (6).

Table 2 of LAC 33:IX.7311.D	
Risk-Specific Concentration For Chromium	
Type of Incinerator	Risk-Specific Concentration (micrograms per cubic meter)
Fluidized bed with wet scrubber	0.65
Fluidized bed with wet scrubber and wet electrostatic precipitator	0.23
Other types with wet scrubber	0.064
Other types with wet scrubber and wet electrostatic precipitator	0.016

$$RSC = \frac{0.0085}{r} \quad \text{Equation (6)}$$

where:

RSC = risk-specific concentration for chromium in micrograms per cubic meter used in Equation (5)

r = decimal fraction of the hexavalent chromium concentration in the total chromium concentration measured in the exit gas from the sewage sludge incinerator stack in hundredths

d. The dispersion factor (*DF*) in Equation (5) shall be determined from an air dispersion model in accordance with Paragraph D.5 of this Section.

i. When the sewage sludge incinerator stack height is equal to or less than 214 feet (65 meters), the actual sewage sludge incinerator stack height shall be used in the air dispersion model to determine the dispersion factor (*DF*) for Equation (5).

ii. When the sewage sludge incinerator stack height is greater than 214 feet (65 meters), the creditable stack height shall be determined in accordance with LAC 33:III.921 and the creditable stack height shall be used in the air dispersion model to determine the dispersion factor (*DF*) for Equation (5).

e. The control efficiency (*CE*) for Equation (5) shall be determined from a performance test of the sewage sludge incinerator in accordance with Paragraph D.5 of this Section.

5. Air Dispersion Modeling and Performance Testing

a. The air dispersion model used to determine the dispersion factor in Subparagraphs D.3.b and 4.d of this Section shall be appropriate for the geographical, physical, and population characteristics at the sewage sludge incinerator site. The performance test used to determine the control efficiencies in Subparagraphs D.3.c and 4.e of this

Section shall be appropriate for the type of sewage sludge incinerator.

b. For air dispersion modeling initiated after September 3, 1999, the modeling results shall be submitted to the administrative authority 30 days after completion of the modeling. In addition to the modeling results, the submission shall include a description of the air dispersion model and the values used for the model parameters.

c. The following procedures, at a minimum, shall apply in conducting performance tests to determine the control efficiencies in Subparagraphs D.3.c and 4.e of this Section after September 3, 1999:

i. the performance test shall be conducted under representative sewage sludge incinerator conditions at the highest expected sewage sludge feed rate within the design capacity of the sewage sludge incinerator;

ii. the administrative authority shall be notified at least 30 days prior to any performance test so the administrative authority may have the opportunity to observe the test. The notice shall include a test protocol with incinerator operating conditions and a list of test methods to be used; and

iii. each performance test shall consist of three separate runs using the applicable test method. The control efficiency for a pollutant shall be the arithmetic mean of the control efficiencies for the pollutant from the three runs.

d. The pollutant limits in Paragraphs D.3 and 4 of this Section shall be submitted to the administrative authority no later than 30 days after completion of the air dispersion modeling and performance test.

e. Significant changes in geographic or physical characteristics at the incinerator site or in incinerator operating conditions require new air dispersion modeling or performance testing to determine a new dispersion factor or a new control efficiency that will be used to calculate revised pollutant limits.

6. Standards for Particulate Matter

a. No owner or operator of any sewage sludge incinerator subject to the provisions of this Section shall discharge or cause the discharge into the atmosphere of:

i. particulate matter at a rate in excess of 0.65 g/kg dry sewage sludge input (1.30 lb/ton dry sewage sludge input); and

ii. any gases that exhibit 20 percent opacity or greater.

b. The owner or operator of a sewage sludge incinerator shall determine compliance with the particulate matter emission standards in Subparagraph D.6.a of this Section as follows:

i. the emission rate (*E*) of particulate matter for each run shall be computed using the following equation:

$$E = (C_s Q_{sd}) / KS$$

where:

E = emission rate of particulate matter, g/kg (lb/ton) of dry sewage sludge input

C_s = concentration of particulate matter, g/dscm (g/dscf)

Q_{sd} = volumetric flow rate of effluent gas, dscm/hr (dscf/hr)

S = charging rate of dry sewage sludge during the run, kg/hr (lb/hr)

K = conversion factor, 1.0 g/g [4.409 lb²/(g-ton)]

ii. Method 5 (40 CFR Part 60, Appendix A-3, incorporated by reference in LAC 33:III.3003) shall be used to determine the particulate matter concentration (*C_s*) and the

volumetric flow rate (Q_{sd}) of the effluent gas. The sampling time and sample volume for each run shall be at least 60 minutes and 0.90 dscm (31.8 dscf);

iii. the dry sewage sludge charging rate (S) for each run shall be computed using either of the following equations:

$$S = K_m S_m R_{dm} / \Theta$$

$$S = K_v S_v R_{dv} / \Theta$$

where:

- S = charging rate of dry sewage sludge, kg/hr (lb/hr)
- S_m = total mass of sewage sludge charged, kg (lb)
- R_{dm} = average mass of dry sewage sludge per unit mass of sludge charged, mg/mg (lb/lb)
- Θ = duration of run, in minutes
- K_m = conversion factor, 60 min/hr
- S_v = total volume of sewage sludge charged, m³ (gal)
- R_{dv} = average mass of dry sewage sludge per unit volume of sewage charged, mg/Liter (lb/ft³)
- K_v = conversion factor, 60 X 10⁻³ (liter-kg-min)/(m³-mg-hr) [8.021 (ft³-min)/(gal-hr)]

iv. the flow measuring device of Paragraph F.2 of this Section shall be used to determine the total mass (S_m) or volume (S_v) of sewage sludge charged to the incinerator during each run. If the flow measuring device is on a time rate basis, readings shall be taken and recorded at 5-minute intervals during the run and the total charge of sewage sludge shall be computed using the following equations, as applicable:

$$S_m = \sum_{i=1}^n Q_{mi} / \Theta_i$$

$$S_v = \sum_{i=1}^n Q_{vi} / \Theta_i$$

where:

- Q_{mi} = average mass flow rate calculated by averaging the flow rates at the beginning and end of each interval "i", kg/min (gal/min)
- Q_{vi} = average volume flow rate calculated by averaging the flow rates at the beginning and end of each interval "i", m³/min (gal/min)
- Θ_i = duration of interval "i", min

v. samples of the sewage sludge charged to the incinerator shall be collected in nonporous jars at the beginning of each run and at approximately 1-hour intervals thereafter until the test ends, and Part 2540, G. Total, Fixed, and Volatile Solids in Solid and Semisolid Samples (the test method indicated in LAC 33:IX.7301.I.2.g) shall be used to determine dry sewage sludge content of each sample (total solids residue), except that:

- (a). evaporating dishes shall be ignited to at least 103°C rather than the 550°C specified in Step 3(a)(1);
- (b). determination of volatile residue, Step 3(b) may be deleted;
- (c). the quantity of dry sewage sludge per unit sewage sludge charged shall be determined in terms of mg/Liter (lb/ft³) or mg/mg (lb/lb); and
- (d). the average dry sewage sludge content shall be the arithmetic average of all the samples taken during the run; and

vi. Method 9 (40 CFR 60, Appendix A-4, incorporated by reference in LAC 33:III.3003) shall be used to determine opacity.

E. Operational Standard—Total Hydrocarbons

1. The total hydrocarbons concentration in the exit gas from a sewage sludge incinerator shall be corrected for 0 percent moisture by multiplying the measured total

hydrocarbons concentration by the correction factor calculated using Equation (7).

$$\text{Correction factor (percent moisture)} = \frac{1}{(1 - X)} \quad \text{Equation (7)}$$

where:

X = decimal fraction of the percent moisture in the sewage sludge incinerator exit gas in hundredths

2. The total hydrocarbons concentration in the exit gas from a sewage sludge incinerator shall be corrected to 7 percent oxygen by multiplying the measured total hydrocarbons concentration by the correction factor calculated using Equation (8).

$$\text{Correction factor (oxygen)} = \frac{14}{(21 - Y)} \quad \text{Equation (8)}$$

where:

Y = percent oxygen concentration in the sewage sludge incinerator stack exit gas (dry volume/dry volume)

3. The monthly average concentration for total hydrocarbons in the exit gas from a sewage sludge incinerator stack, corrected for 0 percent moisture using the correction factor from Equation (7) and to 7 percent oxygen using the correction factor from Equation (8), shall not exceed 100 parts per million on a volumetric basis when measured using the instrument required by Paragraph F.5 of this Section.

F. Management Practices

1. The owner or operator of a sewage sludge incinerator shall provide access to the sewage sludge charged so that a well-mixed representative grab sample of the sewage sludge can be obtained.

2. A flow measuring device that can be used to determine either the mass or volume of sewage sludge charged to the incinerator shall be installed, calibrated, maintained, and properly operated.

a. The flow measuring device shall be certified by the manufacturer to have an accuracy of ±5 percent over its operating range.

b. The flow measuring device shall be operated continuously and data recorded during all periods of operation of the incinerator, unless the administrative authority specifies otherwise.

3. A weighing device for determining the mass of any municipal solid waste charged to the incinerator when sewage sludge and municipal solid waste are incinerated together shall be installed, calibrated, maintained, and properly operated. The weighing device shall have an accuracy of ±5 percent over its operating range.

4. For incinerators equipped with a wet scrubbing device, a monitoring device that continuously measures and records the pressure drop of the gas flow through the wet scrubbing device shall be installed, calibrated, maintained, and properly operated.

a. Where a combination of wet scrubbers is used in series, the pressure drop of the gas flow through the combined system shall be continuously monitored.

b. The device used to monitor scrubber pressure drop shall be certified by the manufacturer to be accurate within ±250 pascals (±1 inch water gauge) and shall be calibrated on an annual basis in accordance with the manufacturer's instructions.

5. An instrument that continuously measures and records the total hydrocarbons concentration in the sewage sludge incinerator stack exit gas shall be installed, calibrated, operated, and maintained for a sewage sludge incinerator. The total hydrocarbons instrument shall employ a flame ionization detector, have a heated sampling line maintained at a temperature of 150°C or higher at all times, and be calibrated at least once every 24-hour operating period using propane.

6. An instrument that continuously measures and records the oxygen concentration in the sewage sludge incinerator stack exit gas shall be installed, calibrated, operated, and maintained for a sewage sludge incinerator.

a. The oxygen monitoring device shall be located upstream of any rabble shaft cooling air inlet into the incinerator exhaust gas stream, fan, ambient air recirculation damper, or any other source of dilution air.

b. The oxygen monitoring device shall be certified by the manufacturer to have a relative accuracy of ±5 percent over its operating range and shall be calibrated according to method(s) prescribed by the manufacturer at least once each 24-hour operating period.

7. An instrument that continuously measures and records information used to determine the moisture content in the sewage sludge incinerator stack exit gas shall be installed, calibrated, operated, and maintained for a sewage sludge incinerator.

8. An instrument that continuously records combustion temperature at every hearth in multiple hearth furnaces, in the bed and outlet of fluidized bed incinerators, and in the drying, combustion, and cooling zones of electric incinerators shall be installed, calibrated, maintained, and properly operated.

a. For multiple hearth furnaces, a minimum of one thermocouple shall be installed in each hearth in the cooling and drying zones, and a minimum of two thermocouples shall be installed in each hearth in the combustion zone.

b. For electric incinerators, a minimum of one thermocouple shall be installed in the drying zone and one in the cooling zone, and a minimum of two thermocouples shall be installed in the combustion zone.

c. Each temperature measuring device shall be certified by the manufacturer to have an accuracy of ±5 percent over its operating range.

d. Operation of a sewage sludge incinerator shall not cause the operating combustion temperature for the sewage sludge incinerator to exceed the performance test combustion temperature by more than 20 percent.

9. A device for measuring the fuel flow to the incinerator shall be installed, calibrated, maintained, and properly operated.

a. The fuel flow measuring device shall be certified by the manufacturer to have an accuracy of ±5 percent over its operating range.

b. The fuel flow measuring device shall be operated continuously and data recorded during all periods of operation of the incinerator, unless the administrative authority specifies otherwise.

10. An air pollution control device shall:

a. be appropriate for the type of sewage sludge incinerator, and the operating parameters for the air pollution

control device shall be adequate to indicate proper performance of the air pollution control device; and

b. be operated so as not to cause a significant exceedance of the average value for the air pollution control device operating parameters from the performance test required by Subparagraphs D.3.c and 4.e of this Section, nor shall the operation of the air pollution control device violate any other requirements of this Section to which the air pollution control device is subjected.

11. The permittee shall collect and analyze sewage sludge fed to a sewage sludge incinerator for dry sludge content and volatile solids content using the method specified at Clause D.6.b.v of this Section, except that the determination of volatile solids, Step (3)(b) of the method, shall not be deleted.

12. Sewage sludge shall not be fired in a sewage sludge incinerator if it is likely to adversely affect a threatened or endangered species listed under Section 4 of the Endangered Species Act, or its designated critical habitat.

13. The instruments required in Paragraphs F.2-9 of this Section shall be appropriate for the type of sewage sludge incinerator.

14. The administrative authority may exempt the owner or operator of any multiple hearth, fluidized bed, or electric sewage sludge incinerator from the daily sampling and analysis of sludge feed requirements in Paragraph F.11 and Subparagraph G.1.d of this Section and from the recordkeeping requirement in Subparagraph H.2.p of this Section for the volatile solids content, only, of the sewage sludge charged to the incinerator during all periods of this incinerator following the performance test if:

a. the particulate matter emission rate measured during the performance test required under Paragraph C.4 of this Section is less than or equal to 0.38 g/kg of dry sewage sludge input (0.75 lb/ton); and

b. the administrative authority determines that the requirements will not be necessary to evaluate the effects upon the environment and human health resulting from the emissions from the sewage sludge incinerator.

G. Frequency of Monitoring. Except as specified otherwise in this Section, the frequency of monitoring shall be as follows.

1. Sewage Sludge

a. The frequency of monitoring for beryllium shall be as required in Subpart C of 40 CFR Part 61 (as incorporated by reference in LAC 33:III.5116), and for mercury as required in Subpart E of 40 CFR Part 61 (as incorporated by reference in LAC 33:III.5116).

b. The frequency of monitoring for arsenic, cadmium, chromium, lead, and nickel in sewage sludge fed to a sewage sludge incinerator shall be the frequency in Table 1 of LAC 33:IX.7311.G.

Table 1 of LAC 33:IX.7311.G	
Frequency of Monitoring—Incineration	
Amount of Sewage Sludge ¹ (metric tons per 365-day period)	Frequency
Greater than zero but less than 290	Once per year
Equal to or greater than 290 but less than 1,500	Once per quarter (4 times per year)
Equal to or greater than 1,500 but less than 15,000	Once per 60 days (6 times per year)
Equal to or greater than 15,000	Once per month (12 times per year)

Table 1 of LAC 33:IX.7311.G	
Frequency of Monitoring—Incineration	
Amount of Sewage Sludge ¹ (metric tons per 365-day period)	Frequency
¹ Amount of sewage sludge fired in a sewage sludge incinerator (dry weight basis)	

c. After the sewage sludge has been monitored for two years at the frequency in Table 1 of LAC 33:IX.7311.G, the administrative authority may reduce the frequency of monitoring for arsenic, cadmium, chromium, lead, and nickel.

d. The frequency of monitoring for dry sewage sludge content and volatile solids content of the sewage sludge shall be once per day, as a grab sample of the sewage sludge fed to the incinerator.

2. Total Hydrocarbons, Oxygen Concentration, Moisture Content, and Combustion Temperatures. The total hydrocarbons concentration and oxygen concentration in the exit gas from a sewage sludge incinerator stack, the information used to measure moisture content in the exit gas, and the combustion temperatures for the sewage sludge incinerator shall be monitored continuously.

3. Air Pollution Control Device Operating Parameters. Unless specified otherwise in this Chapter, the frequency of monitoring for the appropriate air pollution control device operating parameters shall be daily.

4. The frequency of monitoring shall be as specified in this Section for any performance testing or other sampling requirements not covered above. If the frequency of monitoring is not specified, then the frequency of monitoring shall be as specified by the administrative authority.

H. Recordkeeping

1. If the owner/operator of a sewage sludge incinerator is the person who prepares sewage sludge, the owner/operator of the sewage sludge incinerator shall keep a record of the annual production of sewage sludge (i.e., dry ton or dry metric tons) and of the sewage sludge management practice used and retain such record for a period of five years.

2. The owner/operator of a sewage sludge incinerator shall develop the following information and shall retain this information for five years:

- a. the concentration of lead, arsenic, cadmium, chromium, and nickel in the sewage sludge fed to the sewage sludge incinerator;
- b. the total hydrocarbons concentrations in the exit gas from the sewage sludge incinerator stack;
- c. information that indicates the requirements in the national emission standard for beryllium in Subpart C of 40 CFR Part 61 (as incorporated by reference at LAC 33:III.5116) are met;
- d. information that indicates the requirements in the national emission standard for mercury in Subpart E of 40 CFR Part 61 (as incorporated by reference at LAC 33:III.5116) are met;
- e. the operating combustion temperatures for the sewage sludge incinerator;
- f. values for the air pollution control device operating parameters;
- g. the oxygen concentration and information used to measure moisture content in the exit gas from the sewage sludge incinerator stack;

- h. the sewage sludge feed rate;
- i. the stack height for the sewage sludge incinerator;
- j. the dispersion factor for the site where the sewage sludge incinerator is located;
- k. the control efficiency for lead, arsenic, cadmium, chromium, and nickel for each sewage sludge incinerator;
- l. the risk-specific concentration for chromium calculated using Equation (6), if applicable;
- m. a calibration and maintenance log for the instruments used to measure the total hydrocarbons concentration and oxygen concentration in the exit gas from the sewage sludge incinerator stack, the information needed to determine moisture content in the exit gas, and the combustion temperatures;
- n. results of the particulate matter testing required in Subparagraph D.6.b of this Section;
- o. for incinerators equipped with a wet scrubbing device, a record of the measured pressure drop of the gas flow through the wet scrubbing device, as required by Paragraph F.4 of this Section;
- p. a record of the rate of sewage sludge fed to the incinerator, the fuel flow to the incinerator, and the total solids and volatile solids content of the sewage sludge charged to the incinerator; and
- q. results of all applicable performance tests required in this Section.

I. Reporting

1. If the owner/operator of a sewage sludge incinerator is the person who prepares the sewage sludge, the owner/operator shall submit the information in Paragraph H.1 of this Section to the administrative authority on February 19 of each year.

2. The owner/operator of a sewage sludge incinerator shall submit the information in Subparagraphs H.2.a-q of this Section to the administrative authority on February 19 of each year.

3. In addition to the reporting requirements in Paragraphs I.1 and 2 of this Section, the owner/operator of any multiple hearth, fluidized bed, or electric sewage sludge incinerator subject to the provisions of this Chapter shall submit to the administrative authority on February 19 and August 19 of each year (semiannually) a report in writing that contains the following:

- a. a record of average scrubber pressure drop measurements for each period of 15 minutes duration or more during which the pressure drop of the scrubber was less than, by a percentage specified below, the average scrubber pressure drop measured during the most recent performance test. The percent reduction in scrubber pressure drop for which a report is required shall be determined as follows:
 - i. for incinerators that achieved an average particulate matter emission rate of 0.38 kg/mg (0.75 lb/ton) dry sewage sludge input or less during the most recent performance test, a scrubber pressure drop reduction of more than 30 percent from the average scrubber pressure drop recorded during the most recent performance test shall be reported; and
 - ii. for incinerators that achieved an average particulate matter emission rate of greater than 0.38 kg/mg (0.75 lb/ton) dry sewage sludge input during the most recent

performance test, a percent reduction in pressure drop greater than that calculated according to the following equation shall be reported:

$$P = -111E + 72.15$$

where:

P = percent reduction in pressure drop

E = average particulate matter emissions (kg/megagram)

b. a record of average oxygen content in the incinerator exhaust gas for each period of 1-hour duration or more that the oxygen content of the incinerator exhaust gas exceeds the average oxygen content measured during the most recent performance test by more than 3 percent.

4. The owner or operator of any multiple hearth, fluidized bed, or electric sewage sludge incinerator from which the average particulate matter emission rate measured during the performance test required at Paragraph C.4 of this Section exceeds 0.38 g/kg of dry sewage sludge input (0.75 lb/ton of dry sewage sludge input) shall include in the report for each calendar day that a decrease in scrubber pressure drop or increase in oxygen content of exhaust gas is reported, a record of the following:

a. scrubber pressure drop averaged over each 1-hour incinerator operating period;

b. oxygen content in the incinerator exhaust averaged over each 1-hour incinerator operating period;

c. temperatures of every hearth in multiple hearth incinerators, the bed and outlet of fluidized bed incinerators, and the drying, combustion, and cooling zones of electric incinerators averaged over each 1-hour incinerator operating period;

d. rate of sewage sludge charged to the incinerator averaged over each 1-hour incinerator operating period;

e. incinerator fuel use averaged over each 8-hour incinerator operating period; and

f. moisture and volatile solids content of the daily grab sample of sewage sludge charged to the incinerator.

5. The owner or operator of any sewage sludge incinerator other than a multiple hearth, fluidized bed, or electric incinerator or any sewage sludge incinerator equipped with a control device other than a wet scrubber shall include in the semiannual report a record of control device operation measurements, as specified in the plan approved under Paragraph C.5 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§7313. Standard Conditions Applicable to All Sewage Sludge and Biosolids Use or Disposal Permits

A. General Conditions

1. Incorporation of Provisions. In accordance with the provisions of this Chapter all Sewage Sludge and Biosolids Use or Disposal Permits shall incorporate either expressly or by reference all conditions and requirements applicable to the preparation and use or disposal of sewage sludge set forth in the Louisiana Environmental Quality Act, as amended, as well as all applicable regulations.

2. Duty to Comply. The permittee must comply with all conditions of an issued final permit. Any permit

noncompliance constitutes a violation of the Louisiana Environmental Quality Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

3. Enforcement Actions

a. The department may take enforcement action as prescribed by state law or regulation against any person who:

i. fails to submit a permit application as required by law;

ii. knowingly makes any false statement, representation, or certification in any application, record, report, or other document filed with the department pursuant to the Act or these regulations. Violations of this provision may subject the violator to the penalties provided for in the Act for perjury or false statements;

iii. fails to correct deficiencies in the permit application, or upon becoming aware that any relevant facts or information were omitted in a permit application or in any report to the department, fails to promptly submit such facts or information;

iv. fails to take any necessary action to complete the permit issuance, such as payment of fees or publication of required notices; or

v. fails to comply with any condition of the permit.

b. In cases where an application for a Sewage Sludge and Biosolids Use or Disposal Permit is withdrawn by the applicant, a written notification shall be provided to the Office of Environmental Services stating that no sewage sludge use or disposal practice or other activity that would require a permit from the Office of Environmental Services is currently taking place. Provided that the application was not made in response to previous enforcement action, the applicant is then exempt from enforcement action for causes listed under this Paragraph.

4. Toxic Pollutants

a. If any sewage sludge use or disposal standard or prohibition is promulgated under this Chapter or Section 405 of the Clean Water Act for a pathogen or pollutant, or concerning vector attraction reduction, management practices, etc., and that standard or prohibition is more stringent than any applicable requirement in an existing permit, the administrative authority shall institute proceedings under these regulations to modify or revoke and reissue the permit to conform to the sewage sludge use or disposal standard or prohibition.

b. The permittee shall comply with sewage sludge use or disposal standards or prohibitions established under this Chapter within the time frame provided in the regulations that establish these standards or prohibitions, even if the permit has not been modified to incorporate the requirement.

5. Duty to Reapply for an Individual Permit. If the permittee wishes to continue an activity regulated by an existing permit after the expiration date of that permit, the permittee must apply for and obtain a new permit. The new application shall be submitted at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the administrative authority. (The administrative authority shall not grant permission for applications to be submitted later than the expiration date of

the existing permit.) A permit that was issued in accordance with these regulations and that has expired shall be administratively continued until such time as a decision on an application to continue an activity under the permit has been issued by the administrative authority, if the application was received by the department at least 180 days prior to the permit expiration.

6. Permit Action. The conditions set forth in LAC 33:IX.2903, 2905, 2907, 3105, and 6509 as causes for modification, revocation and reissuance, and termination of a permit shall apply to permits issued in accordance with these regulations.

7. Property Rights. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

8. Duty to Provide Information. The permittee shall furnish to the administrative authority, within a reasonable time, any information that the administrative authority requests to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit, or to determine compliance with the permit. The permittee shall also furnish to the administrative authority, upon request, copies of records required to be kept by the permit.

9. State Laws. Nothing in the permit shall be construed to preclude the institution of any legal action, or to relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation.

10. Severability. If any provision of these regulations, or the application thereof, is held to be invalid, the remaining provisions of these regulations shall not be affected, so long as they can be given effect without the invalid provision. To this end, the provisions of these regulations are declared to be severable.

11. Draft Permits. The conditions set forth in LAC 33:IX.3107 for draft permits shall also pertain to permits issued in accordance with these regulations.

12. Fact Sheet. A fact sheet shall be prepared for each draft permit issued in accordance with these regulations. The contents of the fact sheet shall include, but not be limited to, the following:

- a. the name of the applicant;
- b. the name of the facility;
- c. the address of the facility;
- d. the physical location of all facilities that are utilized to prepare sewage sludge or biosolids;
- e. the physical location of all land application sites;
- f. general and management practices;
- g. soil and site restrictions;
- h. monitoring, sampling and analysis, and reporting requirements; and
- i. all other information that is pertinent to the facility and to the permitting process.

13. Public Notice of Permit Actions and Public Comment Period. The conditions set forth in LAC 33:IX.3113 and 6521 for public notices and the public comment period shall apply to all permits issued in accordance with these regulations.

14. Public Comments and Requests for Public Hearings. The conditions set forth in LAC 33:I.1505 and IX.3115 for public comments and requests for public

hearings shall apply to all permits issued in accordance with these regulations.

15. Public Hearings. The conditions set forth in LAC 33:IX.3117 for public hearings shall apply to all permits issued in accordance with these regulations.

16. Obligations to Raise Issues and Provide Information During the Public Comment Period. The conditions set forth in LAC 33:IX.3119 for the obligations to raise issues and provide information during the public comment period shall apply to all permits issued in accordance with these regulations.

17. Reopening of the Public Comment Period. The conditions set forth in LAC 33:IX.3121 for reopening of the public comment period shall apply to all permits issued in accordance with these regulations.

18. Issuance of a Final Permit Decision. After the close of the public comment period under Paragraph A.13 of this Section for a draft permit, the administrative authority shall issue a final permit decision. The administrative authority shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on a Sewage Sludge and Biosolids Use or Disposal Permit. For the purposes of this Section a *final permit decision* means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

19. Response to Comments. The conditions set forth in LAC 33:IX.3125 for responding to comments shall apply to all permits issued in accordance with these regulations.

B. Proper Operation and Maintenance

1. Need to Halt or Reduce Not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

2. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any sewage sludge use or disposal practice in violation of the permit that has a reasonable likelihood of adversely affecting human health or the environment. The permittee shall also take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit, including putting into effect such accelerated or additional monitoring as is necessary to determine the nature and impact of the noncomplying practice.

3. Proper Operation and Maintenance

a. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance also includes employing adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

b. The permittee shall provide an adequate operating staff that is duly qualified to carry out operation and maintenance and other functions necessary to ensure compliance with the conditions of the permit.

C. Monitoring and Records

1. Inspection and Entry. The conditions set forth in LAC 33:IX.6513 for inspection and entry shall apply to all permits issued in accordance with these regulations.

2. Additional Monitoring by the Permittee. If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under LAC 33:IX.7301.I or, unless otherwise specified in 40 CFR Part 503, as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted on the sludge reporting form specified by the administrative authority.

3. Laboratory Accreditation

a. LAC 33:I.Chapters 45-59 provide requirements for an accreditation program specifically applicable to commercial laboratories, wherever located, that provide chemical analyses, analytical results, or other test data to the department, by contract or by agreement, and the data is:

- i. submitted on behalf of any facility, as defined in R.S. 30:2004;
- ii. required as part of any permit application;
- iii. required by order of the department;
- iv. required to be included on any monitoring report submitted to the department;
- v. required to be submitted by a contractor; or
- vi. otherwise required by department regulations.

b. The department laboratory accreditation program is designed to ensure the accuracy, precision, and reliability of the data generated, as well as the use of department-approved methodologies in generation of that data. Laboratory data generated by commercial environmental laboratories that are not accredited under these regulations will not be accepted by the department. Retesting and re-analyses by an accredited commercial laboratory will be required. Where retesting is not possible, the data generated will be considered invalid and in violation of the Sewage Sludge and Biosolids Use or Disposal Permit.

c. The regulations and guidelines on the environmental laboratory accreditation program and a list of laboratories that have applied for accreditation are available on the department's website. Questions concerning the program may be directed to the Office of Environmental Assessment.

D. Reporting Requirements

1. Facility Changes. The permittee shall give notice to the Office of Environmental Services as soon as possible of any planned physical alterations or additions to the permitted facility.

2. Anticipated Noncompliance. The permittee shall give advance notice to the Office of Environmental Services of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

3. Transfers. A permit is not transferable to any person except after notice to the Office of Environmental Services. The administrative authority may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Louisiana Environmental Quality Act. Except as provided in LAC 33:IX.2901.A, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made to identify the

new permittee and incorporate such other requirements as may be necessary under the Louisiana Environmental Quality Act.

4. Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of a permit shall be submitted no later than 14 days following each schedule date.

5. Other Noncompliance. The permittee shall report all instances of noncompliance not reported under Paragraph D.4 of this Section at the time monitoring reports are submitted.

6. Other Information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the administrative authority, it shall promptly submit the omitted facts or correct information.

7. Signatory Requirements. All applications, reports, or information submitted to the administrative authority shall be signed and certified.

a. All permit applications shall be signed as follows:

i. for a corporation—by a responsible corporate officer. For the purposes of this Section, a *responsible corporate officer* means:

(a) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation. These responsible corporate officers are presumed to have the authority to sign permit applications unless the corporation has notified the administrative authority to the contrary; or

(b) the manager of one or more manufacturing, production, or operating facilities, provided that the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to ensure long term compliance with environmental laws and regulations; the manager has the authority to ensure that the necessary systems are established or actions are taken to gather complete and accurate information for permit application requirements; and the authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions rather than to specific individuals;

ii. for a partnership or sole proprietorship—by a general partner or the proprietor, respectively; or

iii. for a municipality or a state, federal, or other public agency—by either a principal executive officer or ranking elected official. For purposes of this Paragraph, a principal executive officer of a federal agency includes:

(a) the chief executive officer of the agency; or

(b) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a regional administrator of EPA).

b. All reports required by permits, and submission of other information requested by the administrative authority, shall be signed by a person described in Subparagraph D.7.a of this Section, or by a duly authorized representative of that person. For the purposes of this Subparagraph, a person is a *duly authorized representative* only if:

i. his or her authorization has been made in writing by a person described in Subparagraph D.7.a of this Section;

ii. the authorization specifies either an individual or a position now having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or a position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and

iii. the written authorization is submitted to the administrative authority.

c. Changes to Authorization. If an authorization under Subparagraph D.7.b of this Section is no longer accurate because a different individual or position now has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Subparagraph D.7.b of this Section must be submitted to the administrative authority prior to, or together with, any reports, information, or applications to be signed by an authorized representative.

d. Certification. Any person signing a document under the provisions of Subparagraph D.7.a or b of this Section shall make the following certification.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

8. Availability of Reports. All recorded information concerning permits and permit applications under this Chapter (completed permit application forms, fact sheets, draft permits, or any public document) not classified as confidential information under R.S. 30:2030(A) and 2074(D) and designated as such in accordance with LAC 33:IX.2323.A and C and LAC 33:IX.6503 shall be made available to the public for inspection and copying during normal working hours in accordance with the Public Records Act, R.S. 44:1 et seq. Claims of confidentiality for the following will be denied:

a. the name and address of any permit applicant or permittee;

b. permit applications, permits, and effluent data; and

c. information required by the Sewage Sludge and Biosolids Use or Disposal Permit application forms provided by the administrative authority. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

Subchapter B. Appendices

§7395. Financial Assurances Documents—Appendices

A, B, C, D, E, F, G, H, I, and J [Formerly §7135]

A. Appendix A—Liability Endorsement

COMMERCIAL PREPARER OF SEWAGE SLUDGE FACILITY OR
COMMERCIAL LAND APPLIER OF BIOSOLIDS LAND
APPLICATION SITE

LIABILITY ENDORSEMENT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Water Permits Division

Dear Sir:

(A). This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering bodily injury and property damage in connection with [name of the insured, which must be either the permit holder, the applicant, or the operator. (Note: The operator will provide the liability-insurance documentation only when the permit holder/applicant is a public governing body and the public governing body is not the operator.)] The insured's obligation to demonstrate financial responsibility is required in accordance with *Louisiana Administrative Code* (LAC), Title 33, Part IX.7307.A.2. The coverage applies at [list the site identification number, site name, facility name, facility permit number, and facility address] for sudden and accidental occurrences. The limits of liability are per occurrence, and annual aggregate, per site, exclusive of legal-defense costs.

(B). The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions of the policy inconsistent with Subclauses (1)-(5), below, are hereby amended to conform with Subclauses (1)-(5), below:

(1). Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy to which this endorsement is attached.

(2). The insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated, as specified in LAC 33:IX.7307.A.2.d, e, or f.

(3). Whenever requested by the administrative authority, the insurer agrees to furnish to the administrative authority a signed duplicate original of the policy and all endorsements.

(4). Cancellation of this endorsement, whether by the insurer or the insured, will be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the administrative authority.

(5). Any other termination of this endorsement will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the administrative authority.

(C). Attached is the endorsement which forms part of the policy [policy number] issued by [name of insurer], herein called the insurer, of [address of the insurer] to [name of the insured] at [address of the insured], this [date]. The effective date of said policy is [date].

(D). I hereby certify that the wording of this endorsement is identical to the wording specified in LAC 33:IX.7307.A.2.b, effective on the date first written above and that insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana.

[Signature of authorized representative of insurer]
[Typed name of authorized representative of insurer]
[Title of authorized representative of insurer]
[Address of authorized representative of insurer]

B. Appendix B—Certificate of Insurance

COMMERCIAL PREPARER OF SEWAGE SLUDGE FACILITY OR
COMMERCIAL LAND APPLIER OF BIOSOLIDS LAND
APPLICATION SITE

CERTIFICATE OF LIABILITY INSURANCE

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Water Permits Division

Dear Sir:

(A). [Name of insurer], the "insurer," of [address of insurer] hereby certifies that it has issued liability insurance covering bodily injury and property damage to [name of insured, which must be either the permit holder or applicant of the facility], the "insured," of [address of insured] in connection with the insured's obligation to demonstrate financial responsibility under *Louisiana Administrative Code* (LAC), Title 33, Part IX.7307.A.2. The coverage applies at [list agency interest number(s), site name(s), facility name(s), facility permit number(s), and site address(es)] for sudden and accidental occurrences. The limits of liability are each occurrence and annual aggregate, per site, exclusive of legal-defense costs. The coverage is provided under policy number [policy number], issued on [date]. The effective date of said policy is [date].

(B). The insurer further certifies the following with respect to the insurance described in Paragraph (A):

(1). Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy.

(2). The insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated, as specified in LAC 33:IX.7307.A.2.d, e, or f.

(3). Whenever requested by the administrative authority, the insurer agrees to furnish to him a signed duplicate original of the policy and all endorsements.

(4). Cancellation of the insurance, whether by the insurer or the insured, will be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the administrative authority.

(5). Any other termination of the insurance will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the administrative authority.

(C). I hereby certify that the wording of this certificate is identical to the wording specified in LAC 33:IX.7307.A.2.c, as such regulations were constituted on the date first written above, and that the insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana.

[Signature of authorized representative of insurer]
[Typed name of authorized representative of insurer]
[Title of authorized representative of insurer]
[Address of authorized representative of insurer]

C. Appendix C—Letter of Credit

COMMERCIAL PREPARER OF SEWAGE SLUDGE FACILITY OR
COMMERCIAL LAND APPLIER OF BIOSOLIDS LAND
APPLICATION SITE

IRREVOCABLE LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Water Permits Division

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No.[number] at the request and for the account of [permit holder's or applicant's name and address] for its [list site identification number(s), site name(s), facility name(s), and facility permit number(s)] at [location(s)], Louisiana, in favor of any governmental body, person, or other entity for

any sum or sums up to the aggregate amount of U.S. dollars [amount] upon presentation of:

(A). A final judgment issued by a competent court of law in favor of a governmental body, person, or other entity and against [permit holder's or applicant's name] for sudden and accidental occurrences for claims arising out of injury to persons or property due to the operation of the commercial preparer of sewage sludge facility or commercial land applier of biosolids land application site at the [name of permit holder or applicant] at [site location(s)] as set forth in the *Louisiana Administrative Code* (LAC), Title 33, Part IX.7307.A.

(B). A sight draft bearing reference to the Letter of Credit No. [number] drawn by the governmental body, person, or other entity, in whose favor the judgment has been rendered as evidenced by documentary requirement in Paragraph (A).

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder/applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the Uniform Customs and Practice for Documentary Letters of Credit (1983), International Chamber of Commerce Publication No. 400, shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:IX.7307.A.2.d.v, effective on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution(s)]
[date]

D. Appendix D—Trust Agreement

COMMERCIAL PREPARER OF SEWAGE SLUDGE FACILITY OR
COMMERCIAL LAND APPLIER OF BIOSOLIDS LAND
APPLICATION SITE

TRUST AGREEMENT/STANDBY TRUST AGREEMENT

This Trust Agreement (the "Agreement") is entered into as of [date] by and between [name of permit holder or applicant], a [name of state] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the state of" or "a national bank" or "a state bank"], the "Trustee."

WHEREAS, the Department of Environmental Quality of the State of Louisiana, an agency of the state of Louisiana, has established certain regulations applicable to the Grantor, requiring that a permit holder or applicant for a permit for a commercial preparer of sewage sludge facility shall provide assurance that funds will be available when needed for [closure and/or post-closure] care of the facility;

WHEREAS, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facility identified herein;

WHEREAS, the Grantor, acting through its duly authorized officers, has selected [the Trustee] to be the trustee under this Agreement, and [the Trustee] is willing to act as trustee.

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

SECTION 1. DEFINITIONS

As used in this Agreement:

(a). The term "Grantor" means the permit holder or applicant who enters into this Agreement and any successors or assigns of the Grantor.

(b). The term "Trustee" means the Trustee who enters into this Agreement and any successor trustee.

(c). The term "Secretary" means the Secretary of the Louisiana Department of Environmental Quality.

(d). The term "Administrative Authority" means the Secretary or a person designated by him to act therefor.

SECTION 2. IDENTIFICATION OF FACILITIES AND COST ESTIMATES

This Agreement pertains to the facilities and cost estimates identified on attached Schedule A. [On Schedule A, list the agency interest number, site name, facility name, facility permit number, and the annual aggregate amount of liability coverage or current closure and/or post-closure cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement.]

SECTION 3. ESTABLISHMENT OF FUND

The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Louisiana Department of Environmental Quality. The Grantor and the Trustee intend that no third party shall have access to the Fund, except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. [Note: Standby Trust Agreements need not be funded at the time of execution. In the case of Standby Trust Agreements, Schedule B should be blank except for a statement that the Agreement is not presently funded, but shall be funded by the financial assurance document used by the Grantor in accordance with the terms of that document.] Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, in trust, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the administrative authority.

SECTION 4. PAYMENT FOR CLOSURE AND/OR POST-CLOSURE CARE OR LIABILITY COVERAGE

The Trustee shall make payments from the Fund as the administrative authority shall direct, in writing, to provide for the payment of the costs of [liability claims, closure and/or post-closure] care of the facility covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the administrative authority from the Fund for [liability claims, closure and/or post-closure] expenditures in such amounts as the administrative authority shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the administrative authority specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

SECTION 5. PAYMENTS COMPRISED BY THE FUND

Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

SECTION 6. TRUSTEE MANAGEMENT

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and with like aims, except that:

(a). Securities or other obligations of the Grantor, or any owner of the [facility or facilities] or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government.

(b). The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(c). The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

SECTION 7. COMMINGLING AND INVESTMENT

The Trustee is expressly authorized, at its discretion:

(a). To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b). To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1, et seq., including one which may be created, managed, or underwritten, or one to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares at its discretion.

SECTION 8. EXPRESS POWERS OF TRUSTEE

Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a). To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b). To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c). To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all securities are part of the Fund;

(d). To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

(e). To compromise or otherwise adjust all claims in favor of, or against, the Fund.

SECTION 9. TAXES AND EXPENSES

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and other proper charges and disbursements of the Trustee, shall be paid from the Fund.

SECTION 10. ANNUAL VALUATION

The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the administrative authority a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee, within 90 days after the statement has been furnished to the Grantor and the administrative authority, shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

SECTION 11. ADVICE OF COUNSEL

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

SECTION 12. TRUSTEE COMPENSATION

The Trustee shall be entitled to reasonable compensation for its services, as agreed upon in writing from time to time with the Grantor.

SECTION 13. SUCCESSOR TRUSTEE

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall, in writing, specify to the Grantor, the administrative authority, and the present Trustee by certified mail, 10 days before such change becomes effective, the date on which it assumes administration of the trust. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

SECTION 14. INSTRUCTIONS TO THE TRUSTEE

All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by the persons designated in the attached Exhibit A or such other persons as the Grantor may designate by amendment to Exhibit

A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the administrative authority to the Trustee shall be in writing and signed by the administrative authority. The Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or termination of the authority of any person to act on behalf of the Grantor or administrative authority hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or administrative authority, except as provided for herein.

SECTION 15. NOTICE OF NONPAYMENT

The Trustee shall notify the Grantor and the administrative authority, by certified mail, within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

SECTION 16. AMENDMENT OF AGREEMENT

This Agreement may be amended by an instrument, in writing, executed by the Grantor, the Trustee, and the administrative authority, or by the Trustee and the administrative authority, if the Grantor ceases to exist.

SECTION 17. IRREVOCABILITY AND TERMINATION

Subject to the right of the parties to amend this Agreement, as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the administrative authority, or by the Trustee and the administrative authority, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

SECTION 18. IMMUNITY AND INDEMNIFICATION

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any direction by the Grantor or the administrative authority issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all reasonable expenses incurred in its defense in the event that the Grantor fails to provide such defense.

SECTION 19. CHOICE OF LAW

This Agreement shall be administered, construed, and enforced according to the laws of the state of Louisiana.

SECTION 20. INTERPRETATION

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers duly authorized [and their corporate seals to be hereunto affixed] and attested to as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in *Louisiana Administrative Code* (LAC), Title 33, Part IX.7307.B.3.i, on the date first written above.

WITNESSES:

 Its: _____
 [Seal]

TRUSTEE:

 By: _____
 Its: _____
 [Seal]

THUS DONE AND PASSED in my office in _____, on the _____ day of _____, 20_____, in the presence of _____ and _____, competent witnesses, who hereunto sign their names with the said appearers and me, Notary, after reading the whole.

 Notary Public

(The following is an example of the certification of acknowledgement that must accompany the trust agreement.)

STATE OF LOUISIANA

PARISH OF _____

BE IT KNOWN, that on this _____ day of _____, 20_____, before me, the undersigned Notary Public, duly commissioned and qualified within the State and Parish aforesaid, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared _____, to me well known, who declared and acknowledged that he had signed and executed the foregoing instrument as his act and deed, and as the act and deed of the _____, a corporation, for the consideration, uses, and purposes and on terms and conditions therein set forth.

And the said appearer, being by me first duly sworn, did depose and say that he is the _____ of said corporation and that he signed and executed said instrument in his said capacity, and under authority of the Board of Directors of said corporation.

Thus done and passed in the State and Parish aforesaid, on the day and date first hereinabove written, and in the presence of _____ and _____, competent witnesses, who have hereunto subscribed their name as such, together with said appearer and me, said authority, after due reading of the whole.

WITNESSES:

NOTARY PUBLIC

E. Appendix E—Surety Bond

COMMERCIAL PREPARER OF SEWAGE SLUDGE FACILITY OR
 COMMERCIAL LAND APPLIER OF BIOSOLIDS LAND
 APPLICATION SITE

FINANCIAL GUARANTEE BOND

Date bond was executed: _____

Effective date: _____

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____

Surety: [name and business address]

[agency interest number, site name, facility name, facility permit number, and current closure and/or post-closure amount(s) for each facility guaranteed by this bond]

Total penal sum of bond: \$ _____

Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we the sureties bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit or liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and specifically 2074(B)(4), to have a permit in order to own or operate the commercial preparer of sewage sludge facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure and/or post-closure care, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required by the *Louisiana Administrative Code* (LAC), Title 33, Part IX.7307, when a surety bond is used to provide such financial assurance;

NOW THEREFORE, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure of the facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

OR, if the Principal shall fund the standby trust fund in such amount(s) within 15 days after an order to close is issued by the administrative authority or a court of competent jurisdiction,

OR, if the Principal shall provide alternate financial assurance as specified in LAC 33:IX.7307.B and obtain written approval from the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority from the Surety,

THEN, this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the administrative authority that the Principal has failed to perform as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification or amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety has received written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:IX.7307.B and the conditions of the commercial preparer of sewage sludge facility permit so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this FINANCIAL GUARANTEE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this FINANCIAL GUARANTEE BOND on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana, and that the wording of this surety bond is identical to the wording specified in LAC 33:IX.7307.B.4.h, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate Seal]

CORPORATE SURETIES

[Name and Address]
State of incorporation: _____
Liability limit: \$ _____
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]
[This information must be provided for each cosurety]
Bond Premium: \$ _____

F. Appendix F—Performance Bond

**COMMERCIAL PREPARER OF SEWAGE SLUDGE FACILITY OR
COMMERCIAL LAND APPLIER OF BIOSOLIDS LAND
APPLICATION SITE**

PERFORMANCE BOND

Date bond was executed: _____
Effective date: _____
Principal: [legal name and business address of permit holder or applicant]
Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]
State of incorporation: _____
Surety: [name(s) and business address(es)]
[agency interest number, site name, facility name, facility permit number, facility address, and closure and/or post-closure amount(s) for each facility guaranteed by this bond (indicate closure and/or post-closure costs separately)]
Total penal sum of bond: \$ _____
Surety's bond number: _____

Know All Persons by These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally; provided that, where Sureties are corporations acting as cosureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and specifically 2074(B)(4), to have a permit in order to own or operate the commercial preparer of sewage sludge facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure and/or post-closure care, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

AND, if the Principal shall faithfully perform post-closure care of each facility for which this bond guarantees post-closure care, in accordance with the closure plan and other requirements of the permit, as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide financial assurance as specified in Louisiana Administrative Code (LAC), Title 33, Part IX.7307.B and obtain written approval of the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of LAC 33:IX.7305.C.3, or of its permit, for the facility for which this bond guarantees performances of closure, the Surety shall either perform closure, in accordance with the closure plan and other permit requirements, or place the closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has been found in violation of the post-closure requirements of the LAC 33:IX.7305.C.3, or of its permit for the facility for which this bond guarantees performance of post-closure, the Surety shall either perform

post-closure in accordance with the closure plan and other permit requirements or place the post-closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance, as specified in LAC 33:IX.7307.B, and obtain written approval of such assurance from the administrative authority during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permit, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have lapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:IX.7307.B and the conditions of the commercial preparer of sewage sludge facility permit so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana, and that the wording of this surety bond is identical to the wording specified in LAC 33:IX.7307.B.5.h, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate seal]

CORPORATE SURETY

[Name and address]
State of incorporation: _____
Liability limit: \$ _____
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]

[For every cosurety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: \$ _____

G. Appendix G—Letter of Credit

COMMERCIAL PREPARER OF SEWAGE SLUDGE FACILITY OR
COMMERCIAL LAND APPLIER OF BIOSOLIDS LAND
APPLICATION SITE

IRREVOCABLE LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,

Water Permits Division

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No. _____ in favor of the Department of Environmental Quality of the state of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the [closure and/or post-closure] fund for its [list agency interest number, site name, facility name, facility permit number] at [location], Louisiana, for any sum or sums up to the aggregate amount of U.S. dollars \$ _____ upon presentation of:

(i).A sight draft, bearing reference to the Letter of Credit No. _____ drawn by the administrative authority, together with;

(ii).A statement, signed by the administrative authority, declaring that the amount of the draft is payable into the standby trust fund pursuant to the Louisiana Environmental Quality Act, R.S. 30:2001, et seq.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event that we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder or applicant], as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the [insert "the most recent addition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"], shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in *Louisiana Administrative Code* (LAC), Title 33, Part IX.7307.B.6.h, effective on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution(s)]
[date]

H. Appendix H—Certificate of Insurance

COMMERCIAL PREPARER OF SEWAGE SLUDGE FACILITY OR
COMMERCIAL LAND APPLIER OF BIOSOLIDS LAND
APPLICATION SITE

CERTIFICATE OF INSURANCE FOR CLOSURE AND/OR POST-CLOSURE CARE

Name and Address of Insurer: _____
(hereinafter called the "Insurer")
Name and Address of Insured: _____
(hereinafter called the "Insured")
(Note: Insured must be the permit holder or applicant.)

Facilities covered: [list the agency interest number, site name, facility name, facility permit number, address, and amount of insurance for closure and/or post-closure care] (These amounts for all facilities must total the face amount shown below.)

Face Amount: _____
Policy Number: _____
Effective Date: _____

The Insurer hereby certifies that it has issued to the Insured the policy of insurance identified above to provide financial assurance for [insert "closure and/or post-closure care"] for the facilities identified above. The Insurer further warrants that such policy conforms in all respects to the requirements of LAC 33:IX.7307.B, as applicable, and as such regulations were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

Whenever requested by the administrative authority, the Insurer agrees to furnish to the administrative authority a duplicate original of the policy listed above, including all endorsements thereon.

I hereby certify that the Insurer is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana and that the wording of

this certificate is identical to the wording specified in LAC 33:IX.7307.B.7.j, effective on the date shown immediately below.

[Authorized signature of Insurer]
 [Name of person signing]
 [Title of person signing]
 Signature of witness or notary: _____
 [Date]

I. Appendix I—Letter from the Chief Financial Officer

COMMERCIAL PREPARER OF SEWAGE SLUDGE FACILITY OR
 COMMERCIAL LAND APPLIER OF BIOSOLIDS LAND
 APPLICATION SITE

LETTER FROM THE CHIEF FINANCIAL OFFICER
 (LIABILITY COVERAGE, CLOSURE, AND/OR POST-CLOSURE)

Secretary
 Louisiana Department of Environmental Quality
 Post Office Box 4313
 Baton Rouge, Louisiana 70821-4313
 Attention: Office of Environmental Services,
 Water Permits Division

Dear Sir:

I am the chief financial officer of [name and address of firm, which may be either the permit holder, applicant, or parent corporation of the permit holder or applicant]. This letter is in support of this firm's use of the financial test to demonstrate financial responsibility for [insert "liability coverage," "closure," and/or "post-closure," as applicable] as specified in [insert "Louisiana Administrative Code (LAC), Title 33, Part IX.7307.A," "LAC 33:IX.7307.B," or "LAC 33:IX.7307.A and B"].

[Fill out the following four paragraphs regarding facilities and associated liability coverage, and closure and post-closure cost estimates. If your firm does not have facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, list the agency interest number, site name, facility name, and facility permit number.]

(A). The firm identified above is the [insert "permit holder," "applicant for a standard permit," or "parent corporation of the permit holder or applicant for a standard permit"] of the following commercial preparer of sewage sludge facility, whether in the state of Louisiana or not, for which liability coverage is being demonstrated through the financial test specified in LAC 33:IX.7307.A. The amount of annual aggregate liability coverage covered by the test is shown for each facility:

(B). The firm identified above is the [insert "permit holder," "applicant for a standard permit," or "parent corporation of the permit holder or applicant for a standard permit"] of the following commercial preparer of sewage sludge facility, whether in the state of Louisiana or not, for which financial assurance for [insert "closure," "post-closure care," or "closure and post-closure care"] is demonstrated through a financial test similar to that specified in LAC 33:IX.7307.B or other forms of self-insurance. The current [insert "closure," "post-closure," or "closure and post-closure"] cost estimates covered by the test are shown for each facility:

(C). This firm guarantees through a corporate guarantee similar to that specified in [insert "LAC 33:IX.7307.B" or "LAC 33:IX.7307.A and B"], [insert "liability coverage," "closure," "post-closure care," or "closure and post-closure care"] of the following commercial preparer of sewage sludge facility, whether in the state of Louisiana or not, of which [insert the name of the permit holder or applicant] are/is a subsidiary of this firm. The amount of annual aggregate liability coverage covered by the guarantee for each facility and/or the current cost estimates for the closure and/or post-closure care so guaranteed is shown for each facility:

(D). This firm is the owner or operator of the following commercial preparer of sewage sludge facility, whether in the state of Louisiana or not, for which financial assurance for liability coverage, closure and/or post-closure care is not demonstrated either to the U.S. Environmental Protection Agency or to a state through a financial test or any other financial assurance mechanism similar to those specified in LAC 33:IX.7307.A and/or B. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility:

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently-audited, year-end financial statements for the latest completed year, ended [date].

[Fill in Part A if you are using the financial test to demonstrate coverage only for the liability requirements.]

PART A. LIABILITY COVERAGE FOR ACCIDENTAL OCCURRENCES
 [Fill in Alternative I if the criteria of LAC 33:IX.7307.B.8.a.i are used.]

Alternative I		
1. Amount of annual aggregate liability coverage to be demonstrated	\$	
*2. Current assets	\$	
*3. Current liabilities	\$	
*4. Tangible net worth	\$	
*5. If less than 90 percent of assets are located in the U.S., give total U.S. assets	\$	
	YES	NO
6. Is line 4 at least \$10 million?		
7. Is line 4 at least 6 times line 1?		
*8. Are at least 90 percent of assets located in the U.S.? If not, complete line 9.		
9. Is line 4 at least 6 times line 1?		

[Fill in Alternative II if the criteria of LAC 33:IX.7307.B.8.a.ii are used.]

Alternative II		
1. Amount of annual aggregate liability coverage to be demonstrated	\$	
2. Current bond rating of most recent issuance of this firm and name of rating service		
3. Date of issuance of bond		
4. Date of maturity of bond		
*5. Tangible net worth	\$	
*6. Total assets in U.S. (required only if less than 90 percent of assets are located in the U.S.)	\$	
	YES	NO
7. Is line 5 at least \$10 million?		
8. Is line 5 at least 6 times line 1?		
*9. Are at least 90 percent of assets located in the U.S.? If not, complete line 10.		
10. Is line 6 at least 6 times line 1?		

[Fill in Part B if you are using the financial test to demonstrate assurance only for closure and/or post-closure care.]

PART B. CLOSURE AND/OR POST CLOSURE

[Fill in Alternative I if the criteria of LAC 33:IX.7307.B.8.a.i are used.]

Alternative I		
1. Sum of current closure and/or post-closure estimate (total all cost estimates shown above)	\$	
*2. Tangible net worth	\$	
*3. Net worth	\$	
*4. Current Assets	\$	
*5. Current liabilities	\$	
*6. The sum of net income plus depreciation, depletion, and amortization	\$	
*7. Total assets in U.S. (required only if less than 90 percent of firm's assets are located in the U.S.)	\$	
	YES	NO
8. Is line 2 at least \$10 million?		
9. Is line 2 at least 6 times line 1?		
*10. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 11.		
11. Is line 7 at least 6 times line 1?		

[Fill in Alternative II if the criteria of LAC 33:IX.7307.B.8.a.ii are used.]

Alternative II		
1. Sum of current closure and post-closure cost estimates (total of all cost estimates shown above)	\$	
2. Current bond rating of most recent issuance of this firm and name of rating service		
3. Date of issuance of bond		
4. Date of maturity of bond		

Alternative II		
*5. Tangible net worth (If any portion of the closure and/or post-closure cost estimate is included in "total liabilities" on your firm's financial statement, you may add the amount of that portion to this line.)	\$	
*6. Total assets in U.S. (required only if less than 90 percent of the firm's assets are located in the U.S.)	\$	
	YES	NO
7. Is line 5 at least \$10 million?		
8. Is line 5 at least 6 times line 1?		
9. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 10.		
10. Is line 6 at least 6 times line 1?		

[Fill in Part C if you are using the financial test to demonstrate assurance for liability coverage, closure, and/or post-closure care.]

PART C. LIABILITY COVERAGE, CLOSURE AND/OR POST-CLOSURE

[Fill in Alternative I if the criteria of LAC 33:IX.7307.B.8.a.i are used.]

Alternative I		
1. Sum of current closure and/or post-closure cost estimates (total of all cost estimates listed above)	\$	
2. Amount of annual aggregate liability coverage to be demonstrated	\$	
3. Sum of lines 1 and 2	\$	
*4. Total liabilities (If any portion of your closure and/or post-closure cost estimates is included in your "total liabilities" in your firm's financial statements, you may deduct that portion from this line and add that amount to lines 5 and 6.)	\$	
*5. Tangible net worth	\$	
*6. Net worth	\$	
*7. Current assets	\$	
*8. Current liabilities	\$	
*9. The sum of net income plus depreciation, depletion, and amortization	\$	
*10. Total assets in the U.S. (required only if less than 90 percent of assets are located in the U.S.)	\$	
	YES	NO
11. Is line 5 at least \$10 million?		
12. Is line 5 at least 6 times line 3?		
*13. Are at least 90 percent of assets located in the U.S.? If not, complete line 14.		
14. Is line 10 at least 6 times line 3?		

[Fill in Alternative II if the criteria of LAC 33:IX.7307.B.8.a.ii are used.]

Alternative II		
1. Sum of current closure and/or post-closure cost estimates (total of all cost estimates listed above)	\$	
2. Amount of annual aggregate liability coverage to be demonstrated	\$	
3. Sum of lines 1 and 2	\$	
4. Current bond rating of most recent issuance of this firm and name of rating service		
5. Date of issuance of bond		
6. Date of maturity of bond		
*7. Tangible net worth (If any portion of the closure and/or post-closure cost estimates is included in the "total liabilities" in your firm's financial statements, you may add that portion to this line.)	\$	
*8. Total assets in U.S. (required only if less than 90 percent of assets are located in the U.S.)	\$	
	YES	NO
9. Is line 7 at least \$10 million?		
10. Is line 7 at least 6 times line 3?		

Alternative II		
*11. Are at least 90 percent of assets located in the U.S.? If not, complete line 12.		
12. Is line 8 at least 6 times line 3?		

(The following is to be completed by all firms providing the financial test)
I hereby certify that the wording of this letter is identical to the wording specified in LAC 33:IX.7307.B.8.d.

[Signature of chief financial officer for the firm]
[Typed name of chief financial officer]
[Title]
[Date]

J. Appendix J—Corporate Guarantee

COMMERCIAL PREPARER OF SEWAGE SLUDGE FACILITY OR COMMERCIAL LAND APPLIER OF BIOSOLIDS LAND APPLICATION SITE

CORPORATE GUARANTEE FOR LIABILITY COVERAGE, CLOSURE, AND/OR POST-CLOSURE CARE

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the state of [insert name of state], hereinafter referred to as guarantor, to the Louisiana Department of Environmental Quality, obligee, on behalf of our subsidiary [insert the name of the permit holder or applicant] of [business address].

Recitals

(A). The guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in *Louisiana Administrative Code* (LAC), Title 33, Part IX.7307.B.8.i.

(B). [Subsidiary] is the [insert "permit holder," or "applicant for a permit"], hereinafter referred to as [insert "permit holder" or "applicant"], for the following commercial preparer of sewage sludge facility covered by this guarantee: [List the agency interest number, site name, facility name, and facility permit number. Indicate for each facility whether guarantee is for liability coverage, closure, and/or post-closure and the amount of annual aggregate liability coverage, closure, and/or post-closure costs covered by the guarantee.]

[Fill in Paragraphs (C) and (D) below if the guarantee is for closure and/or post-closure.]

(C). "Closure plans" as used below refers to the plans maintained as required by LAC 33:IX.7305.C.3, for the closure and/or post-closure care of the facility identified in Paragraph (B) above.

(D). For value received from [insert "permit holder" or "applicant"], guarantor guarantees to the Louisiana Department of Environmental Quality that in the event that [insert "permit holder" or "applicant"] fails to perform [insert "closure," "post-closure care," or "closure and post-closure care"] of the above facility in accordance with the closure plan and other permit requirements whenever required to do so, the guarantor shall do so or shall establish a trust fund as specified in LAC 33:IX.7307.B.3, as applicable, in the name of [insert "permit holder" or "applicant"] in the amount of the current closure and/or post-closure estimates as specified in LAC 33:IX.7307.B.

[Fill in Paragraph (E) below if the guarantee is for liability coverage.]

(E). For value received from [insert "permit holder" or "applicant"], guarantor guarantees to any and all third parties who have sustained or may sustain bodily injury or property damage caused by sudden and accidental occurrences arising from operations of the facility covered by this guarantee that in the event that [insert "permit holder" or "applicant"] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by sudden and accidental occurrences arising from the operation of the above-named facility, or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor will satisfy such judgment(s), award(s), or settlement agreement(s) up to the coverage limits identified above.

(F). The guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the administrative authority and to [insert "permit holder" or "applicant"] that he intends to provide alternative financial assurance as specified in [insert "LAC 33:IX.7307.A" and/or "LAC 33:IX.7307.B"], as applicable, in the name of the [insert "permit holder" or "applicant"]. Within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless [insert "permit holder" or "applicant"] has done so.

(G). The guarantor agrees to notify the administrative authority, by certified mail, of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

(H). The guarantor agrees that within 30 days after being notified by the administrative authority of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of [insert "liability coverage" or "closure and/or post-closure care"] he shall establish alternate financial assurance as specified in [insert "LAC 33:IX.7307.A" and/or "LAC 33:IX.7307.B"], as applicable, in the name of [insert "permit holder" or "applicant"] unless [insert "permit holder" or "applicant"] has done so.

(I). The guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: [if the guarantee is for closure and post-closure, insert "amendment or modification of the closure and/or post-closure care, the extension or reduction of the time of performance of closure and/or post-closure", or any other modification or alteration of an obligation of the [insert "permit holder" or "applicant"] pursuant to LAC 33:IX.7305.C.3.

(J). The guarantor agrees to remain bound under this guarantee for as long as the [insert "permit holder" or "applicant"] must comply with the applicable financial assurance requirements of [insert "LAC 33:IX.7307.A" and/or "LAC 33:IX.7307.B"] for the above-listed facility, except that guarantor may cancel this guarantee by sending notice by certified mail, to the administrative authority and to the [insert "permit holder" or "applicant"], such cancellation to become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the [insert "permit holder" or "applicant"], as evidenced by the return receipts.

(K). The guarantor agrees that if the [insert "permit holder" or "applicant"] fails to provide alternative financial assurance as specified in [insert "LAC 33:IX.7307.A" and/or "LAC 33:IX.7307.B"], as applicable, and obtain written approval of such assurance from the administrative authority within 60 days after a notice of cancellation by the guarantor is received by the administrative authority from guarantor, guarantor shall provide such alternate financial assurance in the name of the [insert "permit holder" or "applicant"].

(L). The guarantor expressly waives notice of acceptance of this guarantee by the administrative authority or by the [insert "permit holder" or "applicant"]. Guarantor expressly waives notice of amendments or modifications of the closure and/or post-closure plan and of amendments or modifications of the facility permit(s).

I hereby certify that the wording of this guarantee is identical to the wording specified in LAC 33:IX.7307.B.8.i, effective on the date first above written.

Effective date: _____
 [Name of Guarantor]
 [Authorized signature for guarantor]
 [Typed name and title of person signing]
 Thus sworn and signed before me this [date].

 Notary Public

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§7397. Procedure to Determine the Annual Whole Biosolids Application Rate (AWBAR)—Appendix K [Formerly §7131]

A. LAC 33:IX.7303.E.1.d.ii requires that the product of the concentration for each pollutant listed in Table 4 of LAC 33:IX.7303.E in biosolids sold or given away in a bag or other container for application to the land and the annual whole biosolids application rate (AWBAR) not cause the annual pollutant loading rate for the pollutant in Table 4 of LAC 33:IX.7303.E to be exceeded. This Appendix contains the procedure used to determine the AWBAR for a sewage sludge that does not cause the annual pollutant loading rates in Table 4 of LAC 33:IX.7303.E to be exceeded.

B. The relationship between the annual pollutant loading rate (APLR) for a pollutant and the AWBAR is shown in Equation (1).

$$APLR = C \times AWBAR \times 0.001 \quad \text{Equation (1)}$$

where:

- APLR = annual pollutant loading rate in kilograms per hectare per 365-day period
- C = pollutant concentration in milligrams per kilogram of total solids (dry weight basis)
- AWBAR = annual whole biosolids application rate in metric tons per hectare per 365-day period (dry weight basis)
- 0.001 = a conversion factor

C. To determine the AWBAR, Equation (1) is rearranged into Equation (2).

$$AWBAR = \frac{APLR}{C \times 0.001} \quad \text{Equation (2)}$$

D. The procedure used to determine the AWBAR is presented below.

1. Analyze a sample of the biosolids to determine the concentration for each of the pollutants listed in Table 4 of LAC 33:IX.7303.E in the biosolids.

2. Using the pollutant concentrations from Step 1 and the APLRs from Table 4 of LAC 33:IX.7303.E, calculate an AWBAR for each pollutant using Equation (2) above.

3. The AWBAR for the biosolids is the lowest AWBAR calculated in Step 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§7399. Pathogen Treatment Processes—Appendix L [Formerly §7133]

A. Processes to Significantly Reduce Pathogens (PSRP)

1. Aerobic Digestion. Sewage sludge is agitated with air or oxygen to maintain aerobic conditions for a specific mean cell residence time at a specific temperature. Values for the mean cell residence time and temperature shall be between 40 days at 20°C and 60 days at 15°C.

2. Air Drying. Sewage sludge is dried on sand beds or on paved or unpaved basins. The sewage sludge dries for a minimum of three months. During two of the three months, the ambient average daily temperature is above 0°C.

3. Anaerobic Digestion. Sewage sludge is treated in the absence of air for a specific mean cell residence time at a specific temperature. Values for the mean cell residence time and temperature shall be between 15 days at 35° to 55°C and 60 days at 20°C.

4. Composting. Using either the within-vessel, static aerated pile, or windrow composting methods, the temperature of the sewage sludge is raised to 40°C or higher and remains at 40°C or higher for five days. For four hours during the five days, the temperature in the compost pile exceeds 55°C.

5. Lime Stabilization. Sufficient lime is added to the sewage sludge to raise the pH of the sewage sludge to 12 after two hours of contact.

B. Processes to Further Reduce Pathogens (PFRP)

1. Composting. Using either the within-vessel composting method or the static aerated pile composting method, the temperature of the sewage sludge is maintained at 55°C or higher for three days. Using the windrow

composting method, the temperature of the sewage sludge is maintained at 55°C or higher for 15 days or longer. During the period when the compost is maintained at 55°C or higher, there shall be a minimum of five turnings of the windrow.

2. Heat Drying. Sewage sludge is dried by direct or indirect contact with hot gases to reduce the moisture content of the sewage sludge to 10 percent or lower. Either the temperature of the sewage sludge particles exceeds 80°C or the wet bulb temperature of the gas in contact with the sewage sludge as the sewage sludge leaves the dryer exceeds 80°C.

3. Heat Treatment. Liquid sewage sludge is heated to a temperature of 180°C or higher for 30 minutes.

4. Thermophilic Aerobic Digestion. Liquid sewage sludge is agitated with air or oxygen to maintain aerobic conditions and the mean cell residence time of the sewage sludge is 10 days at 55° to 60°C.

5. Beta Ray Irradiation. Sewage sludge is irradiated with beta rays from an accelerator at dosages of at least 1.0 megarad at room temperature (approximately 20°C).

6. Gamma Ray Irradiation. Sewage sludge is irradiated with gamma rays from certain isotopes, such as ⁶⁰Cobalt and ¹³⁷Cesium, at dosages of at least 1.0 megarad at room temperature (approximately 20°C).

7. Pasteurization. The temperature of the sewage sludge is maintained at 70°C or higher for 30 minutes or longer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on July 25, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS066. Such comments must be received no later than August 1, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS066. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive,

Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Standards for the Use or Disposal of
Sewage Sludge and Biosolids**

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

The proposed rule will have no implementation cost or savings to the state.

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

Only new facilities coming into the universe of affected facilities will submit the standard fees assessed by the program. An estimate of these revenues would be difficult to calculate due to an uncertainty of the number of new sources that may begin operation after promulgation of the rule.

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

There is no anticipated effect upon individuals or non-governmental groups. These regulations have been in effect at the federal level since 1993.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect on competition or employment from this proposed rule is anticipated because equivalent regulations of the area currently exist at both the state and federal level.

Herman Robinson, CPM
Executive Counsel
0706#013

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

USTs Delivery Prohibition
(LAC 33:XI.401 and 403) (UT015)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to adopt the Underground Storage Tanks regulations, LAC 33:XI.401 and 403 (Log #UT015).

The proposed rule establishes standards for the red tag/delivery prohibition of regulated substances for underground storage tanks (USTs). It sets forth the requirements the owner/operator of the UST must meet in order to continue to receive delivery of fuel, and for when the department may prohibit the delivery of fuel. The 2005 Underground Storage Tank Compliance Act, which amends Section 9003 in Subtitle I of the Solid Waste Disposal Act, mandates states authorized to administer the Underground Storage Tank Program to take certain actions to reduce the incidence of leaking USTs. One such action is to establish

delivery prohibition of regulated substances for USTs that have not met the required 1998 standards or are not compliant with spill prevention, overflow protection, release detection, corrosion protection, or registration requirements. This action must be implemented to maintain funding of the UST program in the state and to provide a serious consequence to those owners and operators that continue to be out of compliance with the regulations. This action will further enhance our effort to maintain protection of human health and the environment. The basis and rationale for this rule are to prevent contamination to the environment from underground storage tanks.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part XI. Underground Storage Tanks

Chapter 4. 2005 Federal Underground Storage Tank Compliance Act Mandated Requirements

§401. Purpose

A. This Chapter implements requirements mandated by the Underground Storage Tank Compliance Act, 42 U.S.C. 6991.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§403. Delivery Prohibition of Regulated Substances to Underground Storage Tank Systems

A. Underground storage tank (UST) systems, except for those systems deferred or exempted from specified Chapters and Sections of these regulations in accordance with LAC 33:XI.101.C, that do not meet any one of the following requirements, upon discovery by the department, shall be subject to the status of red tag/delivery prohibition of regulated substances:

1. installation of spill prevention equipment in accordance with LAC 33:XI.Chapter 3;
2. installation of overflow protection equipment in accordance with LAC 33:XI.Chapter 3;
3. establishment of release detection methods or installation of release detection equipment in accordance with LAC 33:XI.Chapter 7;
4. installation of corrosion protection equipment in accordance with LAC 33:XI.Chapter 3;
5. compliance with LAC 33:XI.301.C.4; or
6. upon evidence of a below-surface release from an UST system, initiation by the owner/operator of release investigation and confirmation steps in accordance with LAC 33:XI.711, or compliance with the release response and corrective action requirements in LAC 33:XI.715.

B. Noncompliance with these regulations as listed in this Subsection shall result in a red tag/delivery prohibition of regulated substances if response action is not taken by the owner/operator within 30 days of receipt of written notification by the department to the owner/operator. Response action will be considered as taken if the owner/operator has contracted and scheduled the action to

take place within those 30 days and the response action has been initiated within 60 days of receipt of the written notification. The forms of noncompliance are:

1. failure to properly operate and/or maintain release detection equipment in accordance with LAC 33:XI.Chapter 7. Failure to provide records, within 10 days of request by the department, showing proper operation and/or maintenance of release detection equipment shall be considered a failure to properly operate and/or maintain the release detection equipment;

2. failure to properly operate and/or maintain spill, overflow, or corrosion protection equipment in accordance with LAC 33:XI.Chapter 5. Failure to provide records, within 10 days of request by the department, showing the type of spill, overflow, or corrosion protection equipment installed and the proper operation and/or maintenance of spill, overflow, or corrosion protection equipment shall be considered a failure to properly operate and/or maintain the spill, overflow, or corrosion protection equipment;

3. failure to maintain financial responsibility in accordance with LAC 33:XI.Chapter 11;

4. failure to protect from corrosion buried metal piping and/or components that routinely contain regulated substances in accordance with LAC 33:XI.303.B.2 and C.4. Failure to produce records, within 10 days of request by the department, showing procedures and/or practices designed to protect from corrosion buried metal piping and/or components that routinely contain regulated substances shall be considered a failure to protect from corrosion buried metal piping and/or components that routinely contain regulated substances.

C. It shall be unlawful for any person to place, or allow the placement of, a regulated substance into an UST that the department has red tagged/prohibited from delivery of regulated substances under Subsection A or B of this Section. The department may use its discretion in determining whether a non-delivery due to a red tag/delivery prohibition of regulated substances may jeopardize the availability of, or access to, motor fuel in remote areas of the state or in cases where an emergency declaration is in effect. When the department determines that red tagging/delivery prohibition will jeopardize the availability of, or access to, regulated substances, specifically motor fuels, in remote areas or in cases of an emergency declaration, it may allow for continued delivery of regulated substances, for up to 180 days, to an UST that has failed to have equipment required under Subsection A of this Section installed or that has been deemed noncompliant by the department under Subsection B of this Section.

D. The department shall provide adequate notice to UST system owners/operators and regulated substance deliverers that an UST has been determined to be ineligible for delivery, deposit, or acceptance of a regulated substance. Placing or allowing placement of a regulated substance into an UST determined ineligible for delivery, deposit, or acceptance of a regulated substance constitutes a violation of this Section.

E. The owner/operator of an UST that has been determined to be ineligible for delivery, deposit, or acceptance of a regulated substance must make the necessary system repairs or upgrades, or remedy any form of noncompliance, and must be cleared of the red tag/delivery

prohibition in writing by the department, or a person authorized by the department, in order to be removed from the red tag listing and be deemed eligible for delivery of regulated substances. The department, or a person authorized by the department, shall remove the red tag/delivery prohibition status for an UST system within two working days after compliance and/or upgrade or repair has been demonstrated.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on July 25, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by UT015. Such comments must be received no later than August 1, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of UT015. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: USTs Delivery Prohibition

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

Initially the department will experience an increase in workload from setting up a database to track red-tagged underground storage tanks (USTs), the tagging and removal of tags, and other procedural aspects of program implementation. This effort is minimized by the fact that inspections are currently being performed, with follow-up inspections where problems are noted.

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

There will be no effect on revenue collections for state or local governmental units.

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

Owners and operators of USTs that are not upgraded or are in violation of the 1998 requirements, and motor fuel distributors to those owners and operators, will be affected by this proposed rule. Owners and operators will not be able to receive additional motor fuel until they bring their USTs into compliance with the regulations. This will affect the owners' and operators' business operations until their USTs are in compliance. The motor fuel distributors will be impacted by the loss of a sale to these owners and operators. It is important to note that owners/operators found in violation and that are red-tagged have been operating outside the regulations and have avoided costs that other tank owners/operators incurred quite some time ago.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment should not be affected by the proposed action under the presumption that there are not a high percentage of USTs that will be found noncompliant, since the requirements have been in effect since 1998. However, other UST facilities in the area of a red-tagged UST could see higher sales during the period of time the red-tagged UST is undergoing remedial action. Some red-tagged UST facilities may choose not to upgrade due to the cost of the upgrade or other compliance issues and may close their facilities. Loss of jobs may occur from the closing of a facility, but business competition may increase from customers looking for a new facility from which to purchase motor fuel.

Herman Robinson, CPM
Executive Counsel
0706#018

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Practical Nurse Examiners

Curriculum Requirements
(LAC 46:XLVII.927, 929, 931, and 933)

The Board of Practical Nurse Examiners proposes to amend LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

The proposed Rule change is to update and clarify requirements for curriculum development and implementation in practical nursing programs. In addition, while the total number of instructional hours has been maintained, the requirement for a minimum number of hours of instruction in each course has been removed. This is to allow greater flexibility and creativity in curriculum design.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 1. Practical Nurses

Chapter 9. Program Projection

Subchapter E. Curriculum Requirements

§927. Development

A. The curriculum shall be developed and written by the nursing faculty and shall include the philosophy and objectives of the program. Curriculum development and

revision shall consider current concepts in health care and health care delivery systems. The evolution of the role of the practical nurse shall influence the curriculum. The curriculum and all curriculum revisions shall be approved by the board prior to implementation.

B. The curriculum shall ensure that program graduates possess the knowledge, skill, ability, and clinical competency to practice safely and effectively as an entry level practical nurse in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and R.S. 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:196 (April 1977), amended LR 8:65 (February 1982), LR 10:339 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 33:

§929. Outline and Rotation Plan

A. A copy of the current board approved curriculum and a copy of the master rotation plan shall be available to the board on request.

B. The master rotation plan for each class shall provide the starting date, course of study, clinical practice areas and scheduled rotations, class schedule, and completion date. The master rotation plan and any revisions to the plan shall be approved by the board prior to implementation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and R.S. 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:195 (April 1977), amended LR 10:339 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 33:

§931. Length of Program

A. A program shall be of sufficient length to ensure that graduates meet the objectives of the program and are clinically competent.

B. A program shall cover a minimum of 1,500 clock hours or an equivalent number of credit hours of scheduled instruction. At least 700 clock hours or an equivalent number of credit hours shall be the minimum number of theory hours and at least 800 clock hours or an equivalent number of credit hours shall be the minimum number of clinical hours.

C. Theory and clinical experience should be concurrent or sequential, progressing from the simple to the complex.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:196 (April 1977), amended LR 8:65 (February 1982), LR 10:339 (April 1984), LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1127 (October 1992), repromulgated LR 18:1260 (November 1992), amended LR 33:

§933. Curriculum

A. The curriculum shall include instruction in the following basic arts and sciences.

1. Body Structure and Function—providing an understanding of the basic anatomy and physiology of the human body and deviations from the normal.

2. Introduction to Microbiology—providing a basic understanding of microbes including their role in health and illness, modes of transmission, reproduction, and methods of control or destruction, with an instructional focus on concepts essential for the safe performance of nursing

procedures and for the prevention of illness and/or the transfer of disease to others.

3. Introduction to Practical Nursing—providing instruction and guidance in the identification and personal development of those qualities and personal characteristics needed to practice practical nursing safely, effectively, and with compassion, including increased and ongoing development of self awareness, sound judgment, prudence, ethical thinking and behaviors, problem solving and critical thinking abilities. This course also provides instruction in the history, trends and the evolution of practical nursing, information related to practical nursing organizations, and an introduction to the laws and rules governing practical nursing practice in Louisiana (the Revised Statutes, Title 37, Chapter 11, Subpart II, Practical Nurses and LAC 46:XLVII, Nurses, Subpart 1, Practical Nurses).

4. Personal, Family and Community Health—providing concepts of personal and family growth and development and an understanding of the unique manner in which people build and define relationships, families, and communities. Instruction is designed to assist the student to identify and respect the unique abilities and qualities of people as they participate and function in society. The student is made aware of the rights of clients to make their own health care decisions and the student learns how to support client decisions through the utilization of local, state and national health resources. Students are guided in coursework designed to increase awareness of and respect for variations in cultural, religious, spiritual, educational, and socio-economic histories and experiences. The student begins to understand how these variations impact health, illness and client participation in the health care delivery system.

5. Nutrition and Diet Therapy—describing concepts of proper nutrition for all age groups and addressing diet modifications for therapeutic purposes.

6. Pharmacology—presenting concepts relating to drug classification, action, dosage, dosage calculation, intended effects, side effects and adverse effects, as well as concepts relating to teaching clients, family, and others about the effects of medications. Instruction provides an opportunity for the development of competence in skills needed in the preparation, administration, documentation, and safe storage of medications.

7. Principles and Practices of Nursing—presenting the application of concepts which will provide basic principles of nursing care and correlated experiences to develop competency in medical-surgical nursing, geriatric nursing, obstetrical nursing, pediatric nursing and mental health nursing. Clinical experience shall include, but not be limited to, the performance of basic and advanced nursing skills, general health and physical assessment, critical thinking and clinical problem solving, medication administration, IV therapy, patient education, health screening, health promotion, health restoration and maintenance, supervision and management, safety and infection control, communication and documentation, and working as a member of an interdisciplinary health care team.

8. Career Readiness—presenting information relating to all aspects of gaining and maintaining a license to practice practical nursing, the nurse's personal accountability to maintain and continue to acquire the knowledge, skills and

abilities needed to practice safely, the qualities employers seek and the non-nursing employment skills, abilities, and personal characteristics needed to secure and maintain employment as a practical nurse. The student also develops a deeper understanding of the laws and rules governing practice, including R.S. 37, Chapter 11, Part II and LAC 46:XLVII, Subpart 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:196 (April 1977), amended LR 8:65 (February 1982), LR 10:339 (April 1984), LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1127 (October 1992), repromulgated LR 18:1260 (November 1992), amended LR 33:

Family Impact Statement

The proposed amendments, to Part XLVII.Subpart 1, should not have any impact on family as defined by R.S. 49:972. There should not be any effect on: the stability of the family, the authority and rights of parents regarding the education and supervision of their children, the functioning of the family, family earnings and family budget, the behavior and personal responsibility of children, and/or the ability of the family or local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments until 3:30 p.m., July 10, 2007, to Claire Doody Glaviano, Board of Practical Nurse Examiners, 3421 N. Causeway, Ste. 505, Metairie, LA 70002.

Claire Doody Glaviano
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Curriculum Requirements

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

Other than the rule publication costs, which are estimated to be \$200.00 in fiscal year 2007, it is not anticipated that the proposed rule amendments will result in any material costs or savings to the Board of Practical Nurse Examiners, any state unit or local governmental unit.

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

The proposed rule will have no effect on revenue collections of state or local governmental units.

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

The proposed rule will have no significant effect on costs and/or economic benefits to directly affected persons, or nongovernmental groups. The proposed rule change updates language, and clarifies the requirements for curriculum development and implementation in Louisiana practical nursing programs. Course descriptions have been revised to more accurately reflect current education and practice, as well as to allow for increased flexibility and creativity in curriculum writing and revision. In addition, the minimum number of hours of instruction for each course has been removed. This will also provide faculty with a greater opportunity for creative curriculum design.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Claire Doody Glaviano, RN, MN
Executive Director
0703#003

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Practical Nurse Examiners

Faculty
(LAC 46:XLVII.901)

The Board of Practical Nurse Examiners proposes to amend LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

The purpose of the proposed Rule change is to establish new guidelines for the educational preparation and nursing experience of faculty hired to teach in practical nursing programs. These new guidelines remove language requiring faculty to attain a specific educational degree but maintain the requirements that faculty members have clinical experience providing direct patient care and be currently licensed to practice registered nursing in the state of Louisiana. The proposed Rule change also allows programs to hire faculty with specialized clinical experience. These changes give program administrators greater choice, control, and responsibility in hiring qualified faculty and in building a staff with the expertise needed to fulfill program objectives.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS PART XLVII. Nurses

Subpart 1. Practical Nurses

Chapter 9. Program Projection

Subchapter A. Faculty and Staff

§901. Faculty

A. The program shall have a faculty of sufficient size and expertise to fulfill the program objectives. At no time shall a faculty consist of less than two fulltime nurse members, one of whom shall be designated as coordinator/department head. Programs with two fulltime nurse faculty members shall admit a maximum of 36 students per class. The board may, upon application by the school administrator, permit program expansion. Expansion approval must be obtained in writing from the board.

B. Application and Qualifications

1. Application. Each applicant for a faculty position in a practical nursing program shall be approved by the Louisiana State Board of Practical Nurse Examiners prior to employment in the program.

2. Licensure. Each nurse faculty member shall hold a current, valid license to practice as a registered nurse in the state of Louisiana, which license shall be visually inspected

annually by the nurse coordinator/department head of the practical nursing program and the administrator of the school. The board may deny and/or rescind approval to a faculty applicant and/or current faculty member whose license has been or is currently being disciplined in any jurisdiction.

3. Nurse Coordinator/Department Head. The coordinator/department head shall be a registered nurse with a minimum of four years experience in medical-surgical nursing or nursing education. At least one of these four years must have been as a medical-surgical hospital staff nurse providing direct patient care. An applicant for nurse coordinator must have practiced as a nurse for a minimum of six full-time months during the three years immediately preceding application.

4. Nurse Instructor. A nurse instructor shall be a registered nurse with a minimum of three years of nursing experience. At least one of these three years must have been as a medical-surgical hospital staff nurse providing direct patient care. An applicant for nurse instructor must have practiced as a nurse for a minimum of six full-time months during the three years immediately preceding application.

5. Specialty Nurse Instructor. The board may consider an applicant for a specialty nurse instructor with experience in one of the clinical specialty areas (maternity, neonatal, pediatric, mental health) provided that this instructor is hired in addition to two full time nurse faculty members who meet the qualifications for nurse coordinator and/or nurse instructor. The specialty nurse instructor must have a minimum of four years of clinical experience in the specific specialty area. The specialty nurse instructor may be utilized only for instruction in the specific specialty area for which application was made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and R.S. 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:194 (April 1977), amended LR 5:355 (November 1979), LR 10:338 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 16:133 (February 1990), LR 18:1127 (October 1992), repromulgated LR 18:1260 (November 1992), amended LR 21:1244 (November 1995), LR 26:2617 (November 2000), LR 33:

Family Impact Statement

The proposed amendments, to Rule XLVII.Subpart 1, should not have any impact on family as defined by R.S. 49:972. There should not be any effect on: the stability of the family, the authority and rights of parents regarding the education and supervision of their children, the functioning of the family, family earnings and family budget, the behavior and personal responsibility of children, and/or the ability of the family or local government to perform the function as contained in the proposed rule.

Interested persons may submit written comments until 3:30 p.m., July 10, 2007, to Claire Doody Glaviano, Board of Practical Nurse Examiners, 3421 N. Causeway, Ste. 505, Metairie, LA 70002.

Claire Doody Glaviano
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Faculty

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

Other than the rule publication costs, which are estimated to be \$100.00 in fiscal year 2007, it is not anticipated that the proposed rule amendments will result in any material costs or savings to the Board of Practical Nurse Examiners, any state unit or local governmental unit.

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

The proposed rule will have no effect on revenue collections of state or local governmental units.

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

The proposed rule will have no significant effect on costs and/or economic benefits to directly affected persons, or nongovernmental groups. The purpose of the proposed rule change is to establish new guidelines for the educational preparation and nursing experience of faculty hired to teach in practical nursing programs. These new guidelines remove language requiring faculty to attain a specific educational degree but maintain the requirements that faculty members have clinical experience providing direct patient care and be currently licensed to practice registered nursing in the state of Louisiana. The proposed rule change also allows programs to hire faculty with specialized clinical experience. These changes give program administrators greater choice, control, and responsibility in hiring qualified faculty and in building a staff with the expertise needed to fulfill program objectives.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Claire Doody Glaviano, MN, APRN
Executive Director
0706#004

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Social Work Examiners

Social Work (LAC 46:XXV.Chapters 1-7)

The Louisiana Board of Social Work Examiners intends to amend *Rules, Standards and Procedures* adopted in February 2000, which implement the Louisiana Social Work Practice Act, R.S. 37:2701-2721. The proposed amendments will apply to all credentialed social workers and amend §113, Social Work Relationships, §117, Conduct, §303, Practice, §305, Qualifications for Registration, Certification Licensure, §307, Administration of Examination, §309, Application Procedure, §311, Renewals and Cancellations, §313, Fees, §315, Board Members, §317, Continuing Education Requirements, §505, GSWs Seeking the LCSW Credential, §701, Impaired Professional Program, and Chapter IX, Procedural Rules.

The proposed Rules have no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXV. Certified Social Workers

Chapter 1. Standards of Practice

§113. Social Work Relationships

A. - B.2. ...

3. Sexual Intimacy or Contact with a Client, Supervisee or Student. A social worker shall not engage in or request sexual intimacy or contact as defined in §113.B.5, with a client, a client's spouse or former spouse, any member of the client's immediate family or with any person with whom the client has a sexual relationship. The prohibition of this rule extends to supervisees and students during such times and under such circumstances where the social worker is in a supervisory or teaching relationship. This rule also expressly prohibits social workers from engaging in any behavior which a reasonable person would find sexually stimulating, seductive or sexually demeaning when such behavior is either directed toward or exhibited in the presence of any person with whom sexual contact is otherwise prohibited by this Rule. Social workers shall not sexually harass a client, supervisee or student.

4. Sexual Intimacy or Contact with a Former Client. A social worker who has provided clinical/therapeutic social work services, such as counseling or the diagnosis or treatment of mental and emotional disorders with individuals, couples, families, or treatment groups, shall not engage in or request sexual intimacy or contacts as defined in §113.B.5, is prohibited from engaging in or requesting sexual intimacy or contacts with a former client within five years from documented termination. Any social worker who engages in sexual intimacy or contacts as defined in §113.B.5 with a former client within five years of documented termination of services shall be subject to disciplinary action for violations under R.S. 37:2717(A)(4) and (7).

a. A social worker who engages in such sexual intimacy or contacts as defined in §113.B.5 after five years from the documented termination of services without first obtaining a consultation from an independent and unrelated LCSW, documenting the assessment of no exploitative potential or harm as required by this rule, shall be subject to disciplinary action for violations under R.S. 37:2717(A)(4) and (7). The consultation shall assess and document the lack of exploitative potential or harm from such sexual intimacy after considering the relevant factors and include the following:

- i. the amount of time that has passed since therapy terminated;
 - ii. the nature, duration, and intensity of the therapy;
 - iii. the circumstances of termination;
 - iv. the client's personal history;
 - v. the client's current mental status;
 - vi. the likelihood of adverse impact on the client;
- and
- vii. any statements or actions made by the therapist during the course of therapy suggesting or inviting the

possibility of a posttermination sexual or romantic relationship with the client.

b. A social worker who has provided nonclinical services to a client, such as resource/service brokerage, referral, consultation, training/skill development, or other services that are brief or indirect in nature, shall not enter into a sexual relationship with a former client upon the documented termination of services when a reasonable, prudent social worker would conclude after appropriate assessment that such would pose an unacceptable risk of harm to the client.

5. Sexual Intimacy or Contact Defined. Sexual intimacy or contact is defined as any contact or any other conduct which reasonably could lead to sexual arousal, whether verbal or nonverbal, including, but not limited to, sexual touching, sexual intercourse (i.e. genital, anal or oral), masturbation, , whether clothed or unclothed, by either the social worker or the client. Sexual intimacy also includes phone sex, cyber-sex and other electronic or printed communication which reasonably could lead to sexual arousal.

6. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:297 (February 2000), amended LR 29:2381 (November 2003), LR 33:

Chapter 3. General Provisions

§301. Definitions

Board Approved Supervision Workshop—this workshop shall be pre-approved by the board. At least six and 1/2 (6.5) clock hours required for workshop to be acceptable and shall deal with supervision models, the theory and techniques of supervision, record keeping, ethics and multicultural issues.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:300 (February 2000), amended LR 33:

§303. Practice

A. - C.4. ...

D. Graduate Social Workers and Provisional Graduate Social Workers may:

1. deliver those clinical services which constitute psychotherapy within an agency under the supervision of a licensed clinical social worker and shall meet the supervision requirements of §505.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:301 (February 2000), amended LR 29:2382 (November 2003), LR 33:

§305. Qualifications for Registration, Certification, Licensure

A. - D.6. ...

E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners,

LR 26:301 (February 2000), amended LR 29:2383 (November 2003), LR 33:

§311. Renewals and Cancellation

A. Renewal notices are mailed on or before July 1 of each year. The renewal fee must be postmarked on or before August 31.

B. Licensed Clinical Social Workers must list those Graduate Social Workers under their supervision for licensure requirements and agency setting on their renewal form.

C. Twenty clock hours of continuing education in programs approved by the board shall be obtained prior to June 30 of each year. (See Rule No. 317 for rules on acceptable continuing education.)

D. A lapsed license, certificate or registration may be renewed without the lapsed fee between September 1 and November 30. Payment must be postmarked on or before November 30.

E. A lapsed license fee may be paid between December 1, and February 28, of each year and the license, certificate or registration will be renewed. The lapsed fee equals twice the amount of the renewal fee.

F. Without payment of the lapsed fee, the license, certification or registration is canceled after February 28, and a certified notice of cancellation is mailed. Payment must be postmarked on or before February 28.

G. It is the social workers responsibility to keep the board informed of his/her current mailing address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:304 (February 2000), amended LR 29:2384 (November 2003), LR 33:

§313. Fees

A. ...

* * *	
Lapsed Renewal Fee for LCSW (postmarked after November 30)	150
Lapsed Renewal Fee for GSW (postmarked after November 30)	100
Lapsed Renewal Fee for RSW (postmarked after November 30)	50
* * *	

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:304 (February 2000), amended LR 29:2384 (November 2003), LR 33:

§315. Board Members

A. - B. ...

C. Meetings

1. The board shall schedule meetings for the following calendar year at the last meeting of the current year.

C.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:304 (February 2000), amended LR 29:2385 (November 2003), LR 33:

§317. Continuing Education Requirements

A. - A.2. ...

3. assisting the professional to expand his/her professional resource network.

B. - L.1.a. ...

b. ten clock hours each year shall be clinical content, including diagnosis and treatment;

c. to maintain the board approved clinical supervisor status, obtain three clock hours of continuing education in clinical supervision every two years, beginning July 1, 2008. These hours must be pre-approved by a LABSWE-designated pre-approval organization.

M. The following learning forums are approved for continuing education and must contain content applicable to social work practice:

1. educational offerings sponsored by or approved by social work licensing bodies, state and national professional social work organizations, and schools accredited by the Council on Social Work Education;

2. should the individual social worker make the determination that an education offering which is not pre-approved by one of the approval organizations has content applicable to social work practice, the *Guide for Assessment of Continuing Education* (§317.P) must be used. This document, as well as all the relevant course materials, and the certificate of completion should be maintained in the event you are audited;

3. distance learning (teleconferences, telecourses, home-study courses and internet courses) sponsored by entities listed in §317.M.1, or pre-approved by a LABSWE-authorized pre-approval organization cannot exceed a total of 10 clock hours of the required 20 clock hours of continuing education required annually for renewal of social work credentials;

4. continuing education activities or academic courses provided by accredited schools of social work. Academic course work counts per actual class hour;

5. presentations of content applicable to social work practice at professional conferences, staff development meetings, and other appropriate forums in which you are the primary presenter. These presentations count 1.5 times the actual time of the presentation, in order to give credit for preparation time. (Example: You prepare a presentation on Holiday Stress that lasts one hour. You will receive 1.5 hours continuing education credit for this presentation.) Presentation and preparation time may only be counted **once** for each topic. Academic preparation and teaching of social work content (undergraduate or graduate) may be counted **once** in the same manner, unless the course has been revised to include substantially new content and text books. Please be prepared to provide the exact nature of the content and presentation;

6. attendance at staff development presentations with content applicable to social work practice (such as staff meeting with a formal and in-depth presentation on working with clients who present borderline symptoms, etc.). Please be prepared to provide the presenter's name, credentials, date of presentation and nature of the content covered. Case based staffing meetings are not included as appropriate continuing education experiences;

7. attendance at professional social work meetings, Association of Social Work Boards (ASWB) item writing

workshops, symposiums, panel discussions, or conferences sponsored by the professional associations suggested in §317.M.1. Please be prepared to provide the dates and nature of content or consultation covered;

8. formal study groups of three or more participants. Must submit name, address, telephone number and credentials of group members to the board office. Study groups should maintain records of topics, attendance, meeting times, and presenters for audit purposes;

9. contracted professional consultation which the credentialed social worker receives. Must provide the paid consultant's name, address, telephone number, credentials, and the dates and focus of the consultation;

10. preparation of substantial written material with content applicable to social work practice which requires literature search, research, and explication of social work content (such as writing a social work article or book for publication, or a major grant application). Please provide specific information about the nature of the written work, the effort required, and the publisher or funding agency. These activities may be counted for no more than five hours continuing education;

11. social workers should be doing consistent independent study. However, such study does not meet the goal of increasing professional relationships and networks. Consequently independent study must receive pre-approval from the board.

N. - O.4....

5. A continuing education offering that rates a zero in any category of the Guide for Assessment of Continuing Education.

P. Guide for Assessment of Continuing Education. As continuing education events vary across the categories listed below, the appropriateness of considering them as acceptable continuing education also varies. An event must receive a total score (combination of all three sections) of 10 to be "clearly acceptable" for continuing education to renew a social work credential. If a category (Program Content, Program Presenter or Program Audience) rates a zero, the education offering is not acceptable for social work continuing education.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.(C) and (G) and 37:2714.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:305 (February 2000), amended LR 29:2385 (November 2003), LR 33:

§319. Reciprocity and Endorsement

A. - C.2.

3. The applicant has passed the advanced generalist, clinical, or masters examination of the Association of Social Work Boards, or equivalent examination, in order to secure current social work license or certification in the state of Louisiana. The applicant shall request that the ASWB forward the official score report to the Louisiana board.

4. The jurisdiction from which the application for a license or certificate comes, accords similar privilege for licensure or certification without examination to holders of licenses or certificates.

5. The applicant submits the required fees.

6. The applicant submits the completed application for endorsement.

7. The verification of license in other state form is completed by any jurisdiction in which the applicant has or has held a social work credential and submitted to the Louisiana board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:306 (February 2000), amended LR 33:

Chapter 5. Minimum Supervision Requirements §503. GSWs Seeking the LCSW Credential

Editor's Note: Section 503 has been re-formatted and much of the content has remained the same.

A. Supervision for the LCSW license can begin after the MSW obtains Graduate Social Work certification.

B. GSWs seeking the LCSW credential must receive a minimum of 24 accumulated calendar months of supervised full-time postgraduate social work practice under the supervision of a Board Approved Clinical Supervisor (BACS).

C. MSW applicants who began their supervised experience on or before December 31, 1999 and filed a Contract for Supervision at the board office postmarked on or before December 31, 1999, shall be required to submit only 24 accumulated months of supervised post graduate social work experience in accordance with the boards supervision rules and on the forms provided by the board to qualify for the LCSW examination and license.

D. A calendar month is counted from the first working day of the month to the last day of that month. GSWs may obtain a list of Board Approved Clinical Supervisors (BACS) from the board office.

E. Face-to-face supervision for licensure must total at least 96 hours.

F. Supervision segments of no fewer than 30 minutes will be counted toward meeting the supervision requirement. Face-to-face supervision must occur for at least 50 minutes to constitute as a hour of supervision.

G. The requirement for supervision is at least 4 hours per calendar month with at least two different supervision contacts per month.

H. One-half (48 hours maximum) of the supervision requirement may be met through group supervision, occurring in increments of no more than two hours per group. No more than five supervisees may be involved in supervision groups.

I. The supervisee and supervisor must keep accurate records of both the dates of supervision times and the hours spent in supervision for potential audit of records. This information must be submitted to the board office on the supervision form entitled Record of Supervision.

J. Supervised work experience eligible to be counted towards licensure begins on the first working day of the first full calendar month after the first supervisory session.

K. School social workers may only count supervision that occurs during the full months in which they are employed in a social work position.

L. The original Plan of Supervision must be submitted to the board office within 60 days of the first supervision session. A Plan of Supervision shall be submitted on each supervision experience.

M. The individual completing supervision toward the LCSW supervised experience requirement must use the

following forms to submit their supervision to the board office:

1. Registration of Supervision;
2. Employer Verification Affidavit;
3. Supervision Agreement/Plan of Supervision;
4. Record of Supervision;
5. Evaluation of Supervision;
6. Termination of Supervision;
7. Professional Experience Verification Affidavit.

N. Forms must be legible. Preferably, material on forms should be typed, but if not typed, the forms must be printed neatly and legibly. Forms which are not legible will be returned.

O. Only original, unaltered supervision forms may be submitted to the board office. Copies, faxes, or forms with any alterations (such as white-out or mark-outs) will not be accepted.

P. To register his/her intent to initiate supervision, the GSW must submit the completed Registration of Supervision, with the registration fee of \$35.

Q. The Plan of Supervision will be reviewed and revisions may be required. Revisions shall be submitted to the board office within 30 days of receipt by the supervisee/supervisor.

R. The supervisee shall submit an Employer Verification Affidavit form from each place of social work employment after she/he receives the MSW degree. The form shall be completed by the employer, not the supervisor (unless the employer and the supervisor are one and the same.)

S. Termination and Evaluation forms shall be submitted to the board office at the end of the supervisory period, and must clearly designate the beginning and ending dates of supervision.

T. Sometimes it is necessary for a supervisor to discontinue supervising a GSW for licensure. When this occurs, no matter what length of time the supervisor actually supervised the supervisee, the supervisor must submit an Evaluation and Termination form.

U. The Professional Experience Verification Affidavit shall be submitted to the board office at the end of the 36 accumulated months of work experience from each place of employment.

V. The supervisor has a professional responsibility to honor his/her commitment to supervise responsibly, which includes submitting forms on a timely basis. Should the supervisor fail to submit forms appropriately, legibly, and on a timely basis, the board reserves the right to withdraw the Board Approved Clinical Supervisor (BACS) designation from the supervisor.

W. When supervision is provided to a GSW by a LCSW-BACS supervisor, not an agency employee, social work ethics require that the LCSW-BACS take responsibility for securing agency agreement to the Plan of Supervision, whether the fee for supervision is paid by the agency or the supervisee.

1. The LCSW-BACS is responsible for clarifying with the agency administration the supervisory role responsibilities and the content of supervision.

2. Under such a plan the supervisees written evaluation is made available to the agency if the agency is paying for the supervision. If the supervisee is paying the fee for supervision, the evaluation is the supervisees property.

X. If the GSW receives supervision outside of the state of Louisiana, that supervision will be accepted if:

1. the supervisor has completed the authorized supervision forms of the Louisiana State Board of Social Work Examiners; and

2. the supervisor was licensed at the time of supervision in the other state and submits the License Verification of Out-of-State Supervisor form (available from board office); or

3. the supervisor was certified by the Academy of Certified Social Workers (ACSW) at the time of supervision, which the supervisor must verify.

Y. A supervisory record shall include:

1. plan of supervision,

2. learning assessment of supervisee,

3. record of all supervisory sessions, and any canceled or missed appointments,

4. overview of cases discussed, as well as significant decisions made,

5. any ethical concerns,

6. significant problems arising in supervision, and how they were resolved,

7. memos and correspondence,

8. or all above data, dates completed and person completing the item.

Z. The boards' publication, *Supervision for Professional Development and Public Protection: A Guide*, provides more information relative to supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000), amended LR 29:2387 (November 2003), LR 33:

§505. The GSW Not Receiving BACS Supervision or the Provisional GSW Not Eligible for BACS Supervision

A. The GSW who is not receiving BACS supervision or the Provisional GSW not eligible for BACS supervision, may deliver those clinical services which constitute psychotherapy only under the supervision of a LCSW. Supervision under these circumstances does not require that the supervising LCSW have the Board Approved Clinical Supervisor (BACS) designation.

B. Regardless of the time spent in clinical practice, the GSW or Provisional GSW must be supervised in accordance with the following rules.

C. The employing agency ultimately is responsible and accountable for services rendered by the GSW or Provisional GSW; therefore, the agency may provide access to LCSW supervision to ensure quality of services. The GSW or Provisional GSW may independently secure LCSW supervision.

D. - E. ...

F. Supervision for GSWs or Provisional GSW rendering clinical services constituting psychotherapy shall total a minimum of two hours per month, counted in increments of no fewer than 30 minutes, for the duration of the time that the GSW or Provisional GSW is rendering psychotherapeutic services.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000), LR 33:

§507. Board-Approved Clinical Supervisor

A. - A.3. ...

4. complete a board orientation workshop;

5. complete a board approved supervision workshop on the theory and techniques of supervision as well as procedures used in supervision toward licensure ;

A.6. - B.2 ...

3. Complete three clock hours of continuing education in clinical supervision every two years beginning July 1, 2008. These hours must be pre-approved by a LABSWE-designated approval organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:308 (February 2000), amended LR 29:2388 (November 2003), LR 33:

Chapter 7. Impaired Professional Program Authority
§701. Authority

A. - B. ...

C. Therefore, in order to ensure a quality program with professional oversight, the Louisiana State Board of Social Work Examiners establishes the Impaired Professional Program Committee. The committee structure and function is directed by the Board's Chairperson.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2389 (November 2003), amended LR 33:

§703. Purpose and Scope

A. ...

B. A social worker who meets the requirements of R.S. 37:2706, 2707 or 2708 may enter the program subsequent to voluntary disclosure of impairment via an initial or renewal application for a credential. Entrance into the program may also occur by determination of the board, following involuntary disclosure of impairment in accordance with R.S. 37:2717(A)(2) or R.S. 37:2717(B)(4), or by other circumstances deemed appropriate by the board. Participation in the program may hence be required as a prerequisite to continued social work practice in accordance with the conditions of any consent order, compliance or adjudication hearing. A social worker who enters the program may be allowed to maintain his/her social work credential while in compliance with the requirements of their program.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2389 (November 2003), amended LR 33:

§705. Program Implementation

A. ...

1. The program participant is required to submit to an assessment relative to the impairment;

a. - b.iv. ...

c. The assessment will be forwarded to the board or its designee by the professional completing the assessment, to be received no later than 30 days following the board's determination of the participant's potential eligibility or requirement to participate in the program.

2. ...

a. The beginning date of the monitoring period will be the date upon which a consent order or participation agreement is formally signed by the social worker and the board, or the date of the board's official decision to require program participation in the event of an adjudication hearing.

3. ...

a. The interval, timing and details of the required screening will be directed by the IPP Manager.

b. Results and reports of all screens will be submitted to the board or its designee before the final business day of the month following the date of the screen.

4. Receipt of any positive, unexplained substance abuse/drug screen or reports of non-compliance or complications relative to the impairment during the monitoring period may result in suspension, or other appropriate action pertaining to the social worker's credential, or exclusion from the IPP, as determined appropriate by the board.

5. When the impairment is substance related, the social worker may be required to attend Twelve Step, or other appropriate support group, meetings on a regular basis.

a. A pre-approved monthly log must be submitted to and received by the board or its designee before the final business day of the month following completion of the required meetings. It is the social worker's responsibility to ensure that these logs are properly completed and received by the board by the designated date.

b. - c. Repealed.

6. - 10. ...

a. - c. Repealed.

11. - 12. ...

13. The social worker must submit to the board an appropriately notarized participation agreement indicating acceptance of the required conditions of participation in the *Social Work Impaired Professional Program* as mandated by the board, along with all initial (or updated) releases or authorizations for the board or its designees to obtain information concerning the social worker's participation and progress in the program. This statement and the required releases and authorizations must be submitted prior to the issuance of any initial credential or re-issuance of a renewal of a credential.

14. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2389 (November 2003), amended LR 33:

Interested parties may review the proposed amendments on the board's web site located at: <http://www.labswe.org>., and send all written comments to 18550 Highland Road, Suite B., Baton Rouge, LA 70809.

Richard N. Burt
Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Social Work**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
It is anticipated that \$7,500 (\$3000 in FY07 and \$4,500 in FY08) in printing costs will be incurred with the publication of the proposed rule changes. The Board has sufficient self-generated funds available to implement the proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is estimated that revenue for the Board will not be impacted. No other state or local Governmental unit will be affected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rules revisions are a result of the emergency preparedness provisions as mandated by ACT 207 of the 2006 Regular Session of the Louisiana Legislature, which provides for temporary registration of out-of-state healthcare professionals during a state-declared public health emergency. These rule changes are also being promulgated in accordance with the recommendations of the Board of Social Work Examiners to ensure public protection through the provision of appropriate supervision requirements; clarification of continuing education requirements; and appropriate social work relationships.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated impact on competition and employment.

Richard N. Burt
Administrator
0706#038

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Early and Periodic Screening, Diagnosis and Treatment
Personal Care Services
Personal Care Workers Wage Enhancement
(LAC 50:XV.7321)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XV.7321 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:9530 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the reimbursement methodology for personal care services in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program (*Louisiana Register*, Volume 28, Number 2). The bureau promulgated an Emergency Rule to amend the provisions of the February 20, 2003 Rule governing the reimbursement methodology for personal care services in the EPSDT Program to implement an hourly wage pass-through, hereafter referred

to as a wage enhancement, payment to providers for personal care workers (*Louisiana Register*, Volume 33, Number 2). This proposed Rule is being promulgated to continue the provisions of the February 9, 2007 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 73. Personal Care Services

§7321. Reimbursement

A. ...

B. Personal Care Workers Wage Enhancement.

1. Effective February 9, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) personal care workers who provide services to Medicaid recipients.

a. At least 75 percent of the wage enhancement shall be paid to personal care workers as wages. If less than 100 percent of the enhancement is paid in wages, the remainder, up to 25 percent shall be used to pay employer-related taxes, insurance and employee benefits.

b. The minimum hourly rate paid to personal care workers shall be the current minimum wage plus 75 percent of the wage enhancement.

2. Providers shall be required to submit a certified wage register to the department verifying the personal care workers' gross wages for the quarter ending June 30, 2005. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

a. gross wage paid to the direct support professional(s);

b. total number of direct support hours worked; and

c. the amount paid in employee benefits.

3. A separate report shall be submitted for paid overtime.

4. The provider shall submit quarterly wage reports that verify that the 75 percent wage enhancement has been paid to the appropriate staff.

5. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage enhancement.

6. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

7. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to personal care workers may result in:

a. forfeiture of eligibility for wage enhancement payments;

b. recoupment of previous wage enhancement payments;

c. Medicaid fraud charges; and

d. disenrollment in the Medicaid Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:179 (February 2003), amended LR 33:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed

Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, July 26, 2006 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Early and Periodic Screening, Diagnosis
and Treatment—Personal Care Services
Personal Care Workers Wage Enhancement**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$179,222 for FY 06-07, \$515,632 for FY 07-08, and \$531,101 for FY 08-09. It is anticipated that \$340 (\$170 SGF and \$170 FED) will be expended in FY 06-07 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$412,440 for FY 06-07, \$1,311,553 for FY 07-08, and \$1,350,900 for FY 08-09. It is anticipated that \$170 will be expended in FY 06-07 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

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

This rule, which continues the provisions of the February 9, 2007 Emergency Rule, proposes to amend the provisions governing the reimbursement methodology for personal care services in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program to implement an hourly wage enhancement payment, hereafter referred to as a wage enhancement, to providers for personal care workers (approximately 3,550,00 annual units of service). It is anticipated that implementation of this proposed rule will increase program expenditures in the EPSDT program by approximately \$591,322 for FY 06-07, \$1,827,185 for FY 07-08 and \$1,882,001 for FY 08-09.

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

It is anticipated that the implementation of this rule will have a positive effect on competition and employment by

assisting providers to recruit and retain sufficient direct care staff.

Jerry Phillips
Medicaid Director
0706#065

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Intermediate Care Facilities for the Mentally Retarded
Direct Service Professionals—Wage Enhancement
(LAC 50:VII.32903)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:VII.32903 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the reimbursement methodology for intermediate care facilities for the mentally retarded (ICFs/MR) that included the Inventory for Client and Agency Planning (ICAP) instruments (*Louisiana Register*, Volume 31, Number 9).

The bureau promulgated an Emergency Rule to amend the provisions of the September 20, 2005 Rule governing the reimbursement methodology for ICFs/MR by increasing the reimbursement paid to providers to implement a wage enhancement for direct care staff employed with the facility (*Louisiana Register*, Volume 33, Number 2). It is the intent that this wage enhancement be paid to the direct care staff. This proposed Rule is being promulgated to continue the provisions of the February 9, 2007 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for the Mentally Retarded

Chapter 329. Reimbursement

Subchapter A. Reimbursement Methodology

§32903. Rate Determination

A. - D.1.d. ...

* * *

e. Direct Service Provider Wage Enhancement. For dates of service on or after February 9, 2007, the direct care reimbursement in the amount of \$2 per hour to ICF-MR providers shall include a direct care service worker wage enhancement incentive. It is the intent that this wage enhancement be paid to the direct care staff. Non compliance with the wage enhancement shall be subject to recoupment.

i. At least 75 percent of the wage enhancement shall be paid to the direct support professional and 25 percent shall be used to pay employer-related taxes, insurance and employee benefits.

ii. The wage enhancement will be added on to the current ICAP rate methodology as follows:

(a). per diem rates for recipients residing in 1-8 bed facilities will increase \$16;

(b). per diem rates for recipients residing in 9-16 bed facilities will increase \$14.93; and

(c). per diem rates for recipients residing in 16+ bed facilities will increase \$8.

D.2. - H.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1592 (July 2005), repromulgated LR 31:2253 (September 2005), amended LR 33:

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, July 26, 2007 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Intermediate Care Facilities for the Mentally Retarded—Direct Service Professionals Wage Enhancement**

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

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$1,988,352 for FY 06-07, \$5,558,864 for FY 07-08, and \$5,558,864 for FY 08-09. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in FY 06-07 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$4,578,024 for FY 06-07, \$14,139,448 for FY 07-08, and \$14,139,448 for FY 08-09. It is anticipated that \$136 will be expended in FY 06-07 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

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

This rule, which continues the provisions of the February 9, 2007 Emergency Rule, proposes to amend the provisions governing the reimbursement methodology for Intermediate Care Facilities for the Mentally Retarded (ICFs/MR) by increasing the reimbursement paid to providers to implement a wage enhancement for direct care staff employed with the facility. It is the intent that this wage enhancement be paid to the direct care staff. It is anticipated that implementation of this proposed rule will increase program expenditures for ICFs/MR services by approximately \$6,566,104 for FY 06-07, \$19,698,312 for FY 07-08 and 19,698,312 for FY 08-09.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have a positive effect on competition and employment by assisting providers to recruit and retain sufficient direct care staff.

Jerry Phillips
Medicaid Director
0706#066

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Nursing Facilities
Direct Support Professionals—Wage Enhancement
(LAC 50:VII.1305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:VII.1305 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions to establish a prospective payment system for nursing facilities based on recipient care needs that incorporates acuity measurements as determined under the Resource Utilization Group III (RUG III) resident classification methodology (*Louisiana Register*, Volume 28, Number 8). The August 20, 2002 Rule was subsequently amended to adopt provisions governing a quarterly adjustment of individual nursing facility rates based on overall case mix and to allow for the offset of installation costs for automatic fire sprinkler systems and two-hour rated walls in Medicaid-certified nursing facilities (*Louisiana Register*, Volume 32, Number 12). The bureau promulgated an Emergency Rule to amend the provisions of the December 20, 2006 Rule governing the reimbursement methodology for nursing facilities by increasing the reimbursement paid to providers to implement a wage enhancement for direct care staff employed with the nursing facility (*Louisiana Register*, Volume 33, Number 2). It is the

intent that this wage enhancement be paid to the direct care staff. This proposed Rule is being promulgated to continue the provisions of the February 9, 2007 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1305. Rate Determination

A. - D.1.h.Example ...

i. For dates of service on or after February 9, 2007, the facility-specific direct care rate will be increased by a \$4.70 wage enhancement prior to the case-mix adjustment for direct care staff. The \$4.70 wage enhancement will be included in the direct care component of the floor calculations. It is the intent that this wage enhancement be paid to the direct care staff.

D.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1474 (June 2002), repromulgated LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, July 26, 2007 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Nursing Facilities

Direct Support Professionals—Wage Enhancement

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

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$3,475,322 for FY 06-07, \$10,007,778 for FY 07-08, and \$10,308,011 for FY 08-09. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in FY 06-07 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$8,001,786 for FY 06-07, \$25,455,645 for FY 07-08, and \$26,219,315 for FY 08-09. It is anticipated that \$136 will be expended in FY 06-07 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

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

This rule, which continues the provisions of the February 9, 2007 Emergency Rule, proposes to amend the provisions governing the reimbursement methodology for nursing facilities by increasing the reimbursement paid to providers to implement a wage enhancement for direct care staff employed with the nursing facility (approximately 610,000 units of service per month). It is the intent that this wage enhancement be paid to the direct care staff. It is anticipated that implementation of this proposed rule will increase program expenditures for nursing facility services by approximately \$11,476,836 for FY 06-07, \$35,463,423 for FY 07-08 and \$36,527,326 for FY 08-09.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have a positive effect on competition and employment by assisting providers to recruit and retain sufficient direct care staff.

Jerry Phillips
Medicaid Director
0706#067

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Citizens Property Insurance Corporation

Regulation 87—Louisiana Citizens Property Insurance Corporation—Producer Binding Requirements (LAC 37:XIII.Chapter 121)

The Louisiana Citizens Property Insurance Corporation, through its Board of Directors, and pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., inter alia, R.S. 22:1430.22, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives Notice of Intent to promulgate Regulation 87 titled Producer Binding Requirements for property and casualty insurance issued by the Louisiana Citizens Property Insurance Corporation through the Louisiana Joint Reinsurance Plan (FAIR Plan) and the Louisiana Insurance Underwriting Plan (Coastal Plan).

As a result of the devastation and destruction caused by Hurricane Katrina and Hurricane Rita, many Louisiana citizens have lost or could lose homeowners insurance coverage or other property and casualty insurance coverage in areas that were most affected by the impact of these two hurricanes. Many citizens have sought or may be forced to seek coverage through other insurance companies to address their property and casualty insurance needs.

Recognizing the gravity of the impact left by Hurricane Katrina and Hurricane Rita and the immediate needs of Louisiana citizens to have property and casualty insurance coverage, the Louisiana Legislature in the 2006 Regular Session enacted Act No. 787, which provides authority for

producers to bind coverage with the Louisiana Citizens Property Insurance Corporation. Regulation 87 is promulgated to accomplish the purposes required by Acts 2006, No. 787. Through the implementation of Regulation 87, qualified producers will be able to write applications of property and casualty insurance through the FAIR Plan and the Coastal Plan after satisfying certain binding authority requirements. As we enter the 2007 hurricane season, Regulation 87 establishes standards and procedures for these producers to utilize in the application process in order that these producers may provide Louisiana citizens with the property and casualty insurance coverage they need in order to avoid the peril that would result from a property loss due to a hurricane or other natural disaster.

Title 37

INSURANCE

PART XIII. Regulations

Chapter 121. Regulation 87—Louisiana Citizens Property Insurance Corporation Producer Binding Requirements

§12101. Purpose

A. The purpose of Regulation 87 is to establish standards, guidelines, and requirements for licensed and qualified insurance producers to have binding authority to write applications of property and casualty insurance for the FAIR Plan and the Coastal Plan issued by the Louisiana Citizens Property Insurance Corporation. Regulation 87 also sets forth standards and procedures regarding the application process for use by such insurance producers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:

§12103. Authority

A. Regulation 87 is promulgated by the Board of Directors of the Louisiana Citizens Property Insurance Corporation, pursuant to the authority granted under the Louisiana Insurance Code, Title 22, R.S. 22:1430.22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:

§12105. Applicability and Scope

A. Regulation 87 applies to all insurance producers who are duly licensed by the Louisiana Department of Insurance to sell property and casualty insurance, are engaged in and transact the business of insurance in the state of Louisiana, have applied to the Louisiana Citizens Property Insurance Corporation and have met the qualifications for binding authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:

§12107. Definitions

A. For the purposes of Regulation 87, the following terms shall have the meaning or definition as indicated herein.

Binding Authority—the ability of a duly licensed insurance producer, who has adequate errors and omission insurance, and has completed a training course offered by

citizens, to issue a policy of property and casualty insurance in the FAIR Plan and Coastal Plan that imposes liability upon citizens. A licensed producer must meet all requirements for binding authority set forth in Regulation 87 and must have applied to and have been authorized by citizens to qualify for binding authority.

Citizens—the Louisiana Citizens Property Insurance Corporation, and includes the residual market insurance programs known as the "Coastal Plan" and the "FAIR Plan."

Coastal Plan—the successor to that program established by Act 35 of the 1970 Regular Session to provide a residual market for adequate insurance on property in the coastal areas of the state, now available as a program of citizens.

Commissioner—the Commissioner of Insurance of the Louisiana Department of Insurance.

Department—the Louisiana Department of Insurance.

FAIR Plan—the successor to that program established by Act 424 of the 1992 Regular Session, and designated as the "Fair Access to Insurance Requirements Plan" to provide a residual market for adequate insurance on property in the state, now available as a program of citizens.

Insurance Producer—a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance, and includes all persons or business entities otherwise referred to in the Louisiana Insurance Code as "insurance agent" or "agent," or "insurance broker" or "broker," or "insurance solicitor" or "solicitor," or "surplus lines broker."

Louisiana Policy Management System (LPMS)—the citizens policy management computer system or its successor.

Procedural Error—an error in an insurance application to bind property and casualty coverage with citizens that does not materially affect the underwriting risk or rise to the level of a material misrepresentation that does not rise to the level of a substantive error.

Producer Subscriber Agreement—a contractual agreement delineating the terms, provisions and conditions permitting insurance producers and/or producer agencies to bind coverage and write property and casualty insurance issued by citizens through the FAIR Plan and the Coastal Plan.

Substantive Error—an error in an application to bind property and casualty insurance coverage with citizens that materially affects the underwriting risk or rises to the level of a material misrepresentation.

Unlicensed Employee—a person hired by an insurance producer who performs administrative or clerical duties authorized by such insurance producer relative to an insurance application, but does not possess an insurance producer license and is not authorized to sell, solicit, or negotiate a contract of insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:

§12109. Licensing

A. Pursuant to R.S. 22:3, no person shall be authorized to transact or shall transact the business of insurance in the state of Louisiana without complying with the provisions of the Louisiana Insurance Code.

B. Except as otherwise provided in R.S. 22:1134(B) and 22:1148(C)(1), no person shall act as or hold himself out to be an insurance producer unless licensed by the department as required by R.S. 22:1133.

C. In accordance with R.S. 22:1133(B), an insurance producer is not authorized to sell, solicit, make an application for, procure, or place for others any policies for any lines of insurance as to which the insurance producer is not qualified and duly licensed in the state of Louisiana.

D. Citizens acknowledges that the granting of an insurance producer license is within the sole province of the department and nothing in Regulation 87 shall be construed or intended to confer upon citizens any right to the licensure of any insurance producer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:

§12111. Qualifications for Binding Authority

A. In order to bind coverage for the FAIR Plan and the Coastal Plan through citizens, each duly licensed insurance producer must meet the following requirements:

1. maintain errors and omission insurance in the minimum amount of \$1 million per occurrence and \$1 million annual aggregate;

2. complete the initial training course and the annual training course approved and offered by citizens, except that an insurance producer authorized by and conducting business with citizens on the date Regulation 87 becomes final shall have until December 31, 2008 to complete the educational requirements;

3. demonstrate experience writing property and casualty insurance in Louisiana and maintain an in-force book of residential and/or commercial property insurance business in the lines of insurance offered by citizens;

4. have a valid insurance producer license issued by the department;

5. submit to citizens a completed application warranting compliance with applicable requirements established by citizens;

6. submit to citizens a properly executed producer subscriber agreement; and

7. demonstrate compliance with all terms and conditions set forth in the producer subscriber agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:

§12113. Procedures to Implement Binding Authority

A. The insurance producer shall list all unlicensed employees that shall have access to the Louisiana Policy Management System (LPMS) in order for the insurance producer to bind property and casualty insurance coverage for their clients with citizens.

B. If the insurance producer is an insurance agency, it shall list each unlicensed employee or insurance producer that shall have access to the Louisiana Policy Management System (LPMS) in order for the insurance producer to bind property and casualty insurance coverage for their clients with citizens.

C. Each insurance producer, whether an individual or an agency, shall assign an administrator who shall have the responsibility and authority to add and/or delete unlicensed employees, including insurance producers, who have been authorized to access the LPMS. The administrator shall provide each unlicensed employee, including insurance producers, an LPMS access code, and the administrator and insurance producer shall select a secure password to access the LPMS. The administrator shall be responsible for managing the LPMS Interface with the insurance producer, whether an individual or an agency, and maintaining up-to-date information in the LPMS.

D. Citizens will publish and maintain technical computer system requirements for the LPMS. Instructions for using the LPMS will be available on a web site created and maintained by citizens. Insurance producers are responsible for ensuring that their computer systems and internal resources meet the technical computer system requirements and that their unlicensed employees, including insurance producers if an insurance agency, are properly trained on the use of the LPMS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:

§12115. Procedures for Application to Bind Coverage

A. The insurance producer shall complete and submit the on-line application for property and casualty insurance coverage to citizens and shall comply with all requirements of the application process that have been established by citizens.

B. The insurance producer authorized to bind coverage with citizens on the LPMS shall provide a valid Louisiana property and casualty insurance producer license number issued by the department in each application for property and casualty coverage with citizens utilizing the LPMS. The administrator shall be responsible for maintaining an up-to-date list of insurance producers with the current insurance producer license number issued by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:

§12117. Education and Training

A. Each authorized insurance producer and each authorized employee of an insurance producer shall, within each calendar year, attend at least one certified continuing education seminar that has been previously approved by citizens in order to maintain their binding authority. Continuing education seminars will be provided by citizens at least twice during each calendar year in order to facilitate the fulfillment of this requirement.

B. Each new insurance producer and each employee of a new insurance producer shall attend a previously approved citizens education seminar as a prerequisite for authorization to bind coverage.

C. Any insurance producer who is authorized by and conducting business with citizens on the date Regulation 87 becomes final shall have until December 31, 2008 to complete the educational requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:

§12119. Errors and Omission Insurance

A. Each insurance producer, including the insurance agency if applicable, must provide documentary proof to citizens that it has met and is carrying a required minimum of \$1 million per occurrence and \$1 million annual aggregate of professional liability coverage at the time of application for binding authority. Proof of professional liability coverage shall include, at a minimum, documentation that verifies the liability insurer, the amount of coverage and the duration of coverage. The administrator of the insurance producer shall update this proof of professional liability coverage in the LPMS each year in advance of the expiration date of the coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:

§12121. Underwriting Requirements

A. Each insurance producer, including a producer who is an insurance agency, who has authority to bind coverage with citizens is responsible to ensure that each producer and unlicensed employee properly follows all of the underwriting procedures established by citizens. Any insurance producer who attempts to bind coverage with citizens and fails to follow the underwriting procedures that have been established by citizens shall be subject to the action that citizens is authorized to take, including the suspension and termination of binding authority privileges, as prescribed in Section 12125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:

§12123. Premium Payments Requirements

A. An insurance producer shall submit the entirety of the premium payment with the application within five calendar days after receipt of the premium. In order to expedite the payment of the premium, any premium money collected from a policyholder by the insurance producer may be electronically drafted from the insurance producer's trust account. The insurance producer shall complete and submit to citizens the necessary draft forms, including the trust account information, in order to utilize this electronic process. Use of this electronic process is not required. However, each insurance producer is encouraged to utilize the electronic process as a preferred method to guarantee that payment of the premium is remitted timely to citizens.

B. Failure to timely submit a premium to citizens may result in suspension of binding authority privileges for one year unless reinstated before the expiration of the one year period by citizens. Additionally, the insurance producer will be referred to the department for further action authorized under the Louisiana Insurance Code. An insurance producer who has been suspended may be authorized to service existing Citizen's business. However, such insurance producer will not be authorized or entitled to bind any new business unless and until reinstated by citizens.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:

§12125. Suspension and Termination of Binding

Authority

A. Citizens has the authority to suspend or terminate the binding authority privileges of an insurance producer if citizens determines that the insurance producer has failed to adhere to proper underwriting and binding procedures that have been established by citizens.

B. An insurance producer who demonstrates a consistent practice of submitting multiple procedural errors on applications to bind coverage with citizens may have his binding authority privileges suspended for a period of not more than 12 months and until such time as citizens has determined that the subject insurance producer has taken the actions required by citizens to rectify the procedural errors.

C. An insurance producer who, during a 12 month period, commits a substantive error in five or more applications to bind coverage with citizens may have his binding authority privileges suspended for a period of not more than 12 months and until such time as citizens has determined that the subject insurance producer has taken the actions required by citizens to rectify the substantive errors.

D. An unlicensed employee who demonstrates a consistent pattern of submitting procedural errors or substantive errors on applications to bind coverage with citizens may be denied the right to access the LPMS on behalf of the insurance producer until such time as citizens has determined that the subject unlicensed employee has taken the actions required by citizens to rectify the errors. The insurance producer, and if applicable an insurance agency, who is responsible for the unlicensed employee who has been sanctioned herein shall be subject to suspension or termination of the binding authority privileges as deemed appropriate by citizens pursuant to the guidelines set forth in Subsections B, C, E and F.

E. An insurance agency, whose producers and/or unlicensed employees, demonstrate a consistent practice of submitting applications to bind coverage with citizens that contain substantive errors that materially affect the underwriting risk of any contract of property and casualty insurance issued, or to be issued, by citizens may have all binding authority privileges terminated for a period of not more than 12 months and until such time as citizens has determined that the subject insurance producer has taken the actions required by citizens to rectify the substantive errors. After the expiration of the termination period, the insurance producer may apply for reinstatement. Reinstatement shall be at the sole discretion of citizens and may be subject to any additional training or educational requirements imposed by citizens.

F. An insurance producer who has been determined by citizens to have knowingly or intentionally engaged in fraudulent conduct or committed an act of fraud in or relative to an application to bind coverage with citizens shall have all binding authority privileges terminated and shall not be eligible for reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:

§12127. Appeals

A. An insurance producer aggrieved by any action taken by the chief executive officer of citizens relative to the suspension or termination of their binding authority privileges shall have the right to file a written appeal to the Board of Directors of citizens. The written appeal shall be filed within 30 days of the date of the adverse action taken by the chief executive officer of citizens against the aggrieved party. The written appeal shall set forth, in detail, each and every reason why the aggrieved party is entitled to the relief requested, including any documents, papers and things tendered in support thereof. The Board of Directors of citizens may conduct a hearing or may consider the matter as being submitted on the merits. The Board of Directors of citizens shall render a decision within 90 days after the date of the lodging of a timely and complete appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:

§12129. Referral for Regulatory Action

A. Citizens reserves the right to refer any matter involving Regulation 87 to the department for any legal action authorized under the Louisiana Insurance Code, including, but not limited to, fine, probation, suspension or revocation of the insurance producer license issued by the department to the insurance producer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:

§12131. Severability

A. If any provision of Regulation 87 or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of Regulation 87 which can be given effect without the invalid provision or application, and to that end, the provisions of Regulation 87 are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:

§12133. Effective Date

A. Regulation 87 shall become effective on the date of the publication of the final rule in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:

Family Impact Statement

The proposed Regulation 87 LAC 37:XIII., Chapter 121 titled Louisiana Citizens Property Insurance Corporation Producer Binding Requirements should not have any known or foreseeable impact on any family as defined by R.S.

49:972D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. the ability of the family or a local government to perform the function as contained in the proposed regulation.

A public hearing on this proposed regulation will be held on July 30 2007, at 10 a.m., in the Poydras Hearing Room of the Poydras Building, 1702 North Third Street, Baton Rouge, LA. Interested persons who wish to make comments may do so at the public hearing or by writing to Mr. J. William Newton, Chairman, Board of Directors, Louisiana Citizens Property Insurance Corporation, c/o Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Comments will be accepted through the close of business, 4:30 p.m., July 30, 2007. No preamble concerning the proposed regulation is available.

J. William Newton
Chairman

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

**RULE TITLE: Regulation 87—Louisiana Citizens
Property Insurance Corporation
Producer Binding Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Louisiana Citizens Property Insurance Corporation does not anticipate any implementation costs for proposed Regulation 87.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no increase or decrease in revenue as a result of the proposed Regulation 87.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Persons applying for coverage through Louisiana Citizens Property Insurance Corporation would be impacted in that their insurance producer would be able to bind coverage when taking their application, assuring that the property is covered by insurance.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Implementation of proposed Regulation 87 should have no impact upon competition and employment in the state.

J. William Newton
Chairman
0706#071

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Progressive Electronic Gaming Devices
(LAC 42:VII.4204, IX.4204, and XIII.4204)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:VII.4204, IX.4204, and XIII.4204 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

**Part VII. Pari-Mutuel Live Racing Facility
Slot Machine Gaming**

Chapter 42. Racetracks: Electronic Gaming Devices

§4204. Progressive Electronic Gaming Devices

A. - F.1. ...

G. Consistent Odds on Linked EGD's

1. When two or more progressive gaming devices are linked together, each device on the link shall have the same probability of winning any particular progressive award offered, and the probability shall be in proportion to the amount wagered. The method of equalizing the expected probability of winning any progressive award shall be conspicuously displayed on each device connected to the system.

H. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:775 (April 2000), amended LR 31:1604 (July 2005), LR 33:

Part IX. Landbased Casino Gaming

**Subpart 1. Economic Development and
Gaming Corporation**

Chapter 42. Electronic Gaming Devices

§4204. Progressive Electronic Gaming Devices

A. - F.1. ...

G. Consistent Odds on Linked EGD's

1. When two or more progressive gaming devices are linked together, each device on the link shall have the same probability of winning any particular progressive award offered, and the probability shall be in proportion to the amount wagered. The method of equalizing the expected probability of winning any progressive award shall be conspicuously displayed on each device connected to the system.

H. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2311 (October 2000), amended LR 31:1605 (July 2005), LR 33:

Part XIII. Riverboat Gaming

Subpart 2. State Police Riverboat Gaming Division

Chapter 42. Electronic Gaming Devices

§4204. Progressive Electronic Gaming Devices

A. - F.1. ...

G. Consistent Odds on Linked EGD's

1. When two or more progressive gaming devices are linked together, each device on the link shall have the same probability of winning any particular progressive award offered, and the probability shall be in proportion to the amount wagered. The method of equalizing the expected probability of winning any progressive award shall be conspicuously displayed on each device connected to the system.

H. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:718 (April 2000), amended LR 31:1607 (July 2005), LR 33:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board through its chairman, has considered the potential family impact of amending LAC 42:VII.4204, IX.4204, and XIII.4204.

It is accordingly concluded that amending LAC 42:VII.4204, IX.4204, and XIII.4204 would appear to have a positive yet inestimable impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 326-6500, and may submit comments relative to this proposed Rule through July 10, 2007, to 1885 North Third Street, Suite 500, Baton Rouge, LA 70802.

H. Charles Gaudin
Chairman

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

RULE TITLE: Progressive Electronic Gaming Devices

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation costs are anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that there will be a positive, although probably marginal, impact on revenue collections due to expected increased play of newer slot machines; however, the amount of any increase cannot be estimated with any degree of certainty.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No increased costs are anticipated to be borne by directly affected persons (casino gaming industry). It is anticipated that there will be a positive, although probably marginal, impact on gaming revenue due to expected increased play of newer slot machines; however, the amount of any increase cannot be estimated with any degree of certainty.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

No effect on competition or employment is estimated.

H. Charles Gaudin
Chairman
0706#032

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
State Uniform Construction Code Council**

State Uniform Construction Code (LAC 55:VI.301)

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730:22(C) and (D) and R.S. 40:1730.34(B) relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Code Council hereby proposes to amend a Section under Chapter 3 to include the mechanical and electrical chapters into the International Residential Code as part of the Louisiana State Uniform Construction Code.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

A. - A.2. ...

3. International Residential Code, 2006 Edition, not including Parts I-Administrative and VII-Plumbing. The applicable standards referenced in that Code are included for regulation of construction within this state. Appendix J, Existing Buildings and Structures, is also included for mandatory regulation. For purposes of this Part, Section R301.2.1.1 of the 2003 edition of the International Residential Code is hereby specifically adopted in lieu of the 2006 edition and shall be effective until January 1, 2008. Furthermore, IRC R301.2.1.1 (Design Criteria) shall be amended as follows and shall only apply to the International Residential Code:

- a. amendment of R301.2.1.1 (Design Criteria);
- b. item 6, the American Concrete Institute, Guide to Concrete Masonry Residential Construction in High Winds Areas, shall be added;
- c. item 7, Institute for Business and Home Safety, Optional Code-plus Fortified for Safer Living, shall be added;
- d. item 8, Federal Alliance for Safe Homes, Optional Code-plus Blueprint for Safety, shall be added.

4. - 7. ...

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 33:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments or requests for public hearing on this proposed Rule change to Paeton Burkett, Attorney, Louisiana State Uniform Construction Code Council, at 7979 Independence Boulevard, Suite 307Q, Baton Rouge, LA 70806. Comments will be accepted through close of business July 10, 2007.

Jill Boudreaux
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: State Uniform Construction Code**

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

This rule will not result in an increase in costs or savings to local governmental units since the rule only included two additional chapters (mechanical and electrical chapters) into the International Residential Code, which was previously adopted as part of the Louisiana State Uniform Construction Code. The proposed rule does not add any additional expenditures apart from or in addition to those that will result from the enactment of Act 12 of the 2005 First Extraordinary Session. Pursuant to that Act, the Department of Public Safety and Corrections has employed four (4) additional positions needed as staff for the Uniform Construction Code Council. The annual cost of these positions and associated expenses are estimated to be \$322,478 in FY 08, \$331,361 in FY 09, and \$340,601 in FY 10.

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

The proposed rule will have no effect on revenue collections of state governmental units.

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

No commercial or residential building may be constructed, altered or repaired until plans have been reviewed and the structure inspected for compliance with the Louisiana Uniform Construction Code. This rule is being adopted to provide mechanical and electrical standards for residential structures, which is current practice in many jurisdictions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There will be no effect on competition and employment as the proposed rule is merely adding two chapters to an already established code.

Jill P. Boudreaux
Undersecretary
0706#034

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Returns and Payment of Tax; Penalty for Absorption of Tax
(LAC 61:1.4351)

Under the authority of R.S. 47:306, 47:337.2, 47:337.18, and 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:1.4351 to provide guidance to taxpayers concerning the filing of sales tax returns.

The department has traditionally approved applications of dealers to combine the sales tax filing data from several locations of the same legal entity into a single monthly or quarterly sales tax return, and will continue to do so. The proposed Rule provides, however, that when a dealer operates a location within the boundaries of a tax increment financing district, the department might require that the sales tax data for the location within the district be reported on a separate return. The department might require a dealer to file a separate return in any other instance where tax data is required for an individual sales location.

The proposed Rule also provides with respect to the filing of quarterly sales tax returns with the Louisiana Department of Revenue and for the filing with the department of returns for periods other than a calendar month or quarter. The filing of quarterly sales tax returns with political subdivisions of the state is provided for by R.S. 47:337.18(A)(1)(b)(i), and is not affected by this proposed Rule.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 43. Sales and Use Tax

**§4351. Returns and Payment of Tax, Penalty for
Absorption of Tax**

A. General. All persons and dealers who are subject to state or local sales or use tax are required to file a tax return monthly, unless otherwise provided, and to remit the amount of tax due. Forms will be provided by the collector, and failure to receive a form will not relieve the dealer of the necessity to file and remit the tax due. For the purpose of collecting and remitting state and local sales or use tax, the dealer performs as the agent of the taxing authority.

1. After a dealer is properly registered for sales and use tax purposes, a sales tax identification number is assigned and the dealer is required to file monthly sales tax returns. Failure to file returns timely will cause the collector to issue an estimated proposed assessment. For those months when the dealer has no taxable sales or amounts to report, a return must still be filed marked "no sales or taxable

amounts" and signed by the dealer. Monthly returns must be filed on or before the twentieth day of the month following the month in which the tax is due.

a. Taxpayers may request approval to file consolidated sales tax returns to report sales made from multiple locations on one consolidated monthly return.

b. The collector may require taxpayers to file separate tax returns if the taxpayer is located within a tax increment financing zone or in any other instance when tax data is required by taxpayer location.

2. - 6. ...

B. Exceptions. Not all dealers are required to file returns on a monthly basis.

1. After registration, all dealers will be required to file monthly tax returns.

2. Quarterly Filing. Solely for state sales or use tax purposes, after the dealer has filed tax returns for a few months and it is determined that their tax liability averages less than \$500 per month, the dealer will be notified and required to file returns quarterly.

a. It is not necessary to apply for quarterly filing because once a determination is made by the secretary that quarterly filing is appropriate, the dealer will be notified.

b. Quarterly returns must be filed on or before the twentieth day of the first month of the next succeeding quarter.

c. Any dealer required to file on a quarterly basis, may apply for approval to file and pay taxes on a monthly basis.

i. Requests to file monthly must include justification for the exception.

ii. Monthly filing requests must be approved before the dealer may begin filing monthly.

d. Solely for filing local sales or use tax returns, R.S. 47:337.18(A)(1)(b)(i) requires dealers to file their tax returns quarterly if their tax due averages less than \$30 per month.

3. Irregular Filing. Dealers with occasional sales or use tax purchases may apply for approval to file and pay taxes on an irregular filing basis.

a. Sales and use tax returns must be filed on or before the twentieth day of the month following the month in which the taxable transaction occurred.

b. Each line of the tax return must be completed and all nontaxable amounts should be identified.

4. Alternate Filing Periods

a. Dealers must apply for approval to file sales tax returns using an alternate method.

b. Approval will only be granted if the total filings do not exceed 12 filings in a 12-month period.

c. The number of short periods during a year must be greater than or equal to the number of long periods during that same year.

d. At the beginning of each year the dealer must, after obtaining approval for the alternate period filing method, file with the collector a calendar for the year showing the alternative filing periods for that year. Amendments to approved calendars must be submitted for approval prior to the affected periods. The taxpayer's account will be reviewed to determine if the taxpayer has correctly filed returns, according to the calendar submitted at the beginning of the year. If the taxpayer does not follow the

approved alternate filing method, the returns for the year under review will be converted to a calendar month basis and the taxpayer's request to use an alternate period filing method for the subsequent year will be denied. Alternate period returns must be filed on or before the twentieth day following the close of the alternate filing period. Failure to file on or before this date will subject the dealer to delinquency charges, loss of vendor's compensation, and other charges as prescribed by law.

C. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:306, R.S. 47:337.2, R.S. 47:337.18, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 22:852 (September 1996), amended by the Department of Revenue, Sales Tax Division, LR 23:1530 (November 1997), amended by the Department of Revenue, Policy Services Division, LR 30:2868 (December 2004), LR 31:1101 (My 2005), LR 32:111 (January 2006), LR 33:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the Louisiana Register. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Tuesday, July 24, 2007. A public hearing will be held on Thursday, July 26, 2007, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Returns and Payment of Tax; Penalty for Absorption of Tax

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

Implementation of this proposed rule will have no effect on local governmental unit costs. The purpose of the provision of the proposed rule limiting filings to 12 per year is to reduce costs and streamline processes within the department. Entering a 13th return to an individual account is a costly manual process.

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

This proposed amendment to the rule will have no effect on the revenue collections of the State of Louisiana or any of its political subdivisions.

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

This proposed rule will require a change in procedure for a relatively few number of sales tax filers that file more than twelve sales tax returns per year with the department. Most such dealers now submit a return for each four-week accounting period, or a total of 13 sales tax returns per year. Those dealers will reduce their sales tax filings by one per year.

The cost to the affected dealers of this change in procedure is not known, but is believed to be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no effect on competition or employment.

Cynthia Bridges
Secretary
0706#049

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

Electronic Benefits Transfer—Methods of Issuing Benefits
Electronically (LAC 67:III.401-409 and 901)

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III, Subpart 1, Chapter 4, Electronic Benefits Issuance System to provide delivery of benefits through electronic disbursements. Electronic disbursement has allowed the agency to provide effective and efficient disbursement of payments to our clients while eliminating the need to print and mail checks.

The agency proposes to amend Chapter 4 Electronics Benefits Issuance System in its entirety which adds the types of electronic disbursements utilized and to address program payments by Electronic Benefits Transfer (EBT) to Family Independence Temporary Assistance Program (FITAP), Kinship Care Subsidy Program (KCSP), and Food Stamp Program Benefits. The agency intends to add these procedures to Chapter 4 as they represent additional methods of issuing benefits electronically.

The agency proposes to amend Chapter 4, re-number its Sections, and to add Chapter 9. These amendments are to remove references concerning the EBT pilot program which is obsolete, to include additional language for electronic disbursements, and to re-number all Sections. As a result of renumbering, §402 is being removed and §409 is being added. These amendments concerning electronic disbursements are pursuant to the authority granted to the department by the Department of Agriculture, Food and Nutrition Services, 7 CFR 274.12; and ACF Guidance: ACYF—IM-CC-05-03, Flexibility in Spending CCDF Funds in Response to Federal or State Declared Emergency Situations and Section 404(g) and Section 454b(b) of the Social Security Act.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 1. General Administrative Procedures

Chapter 4. Electronic Benefits Issuance System

§401. Electronic Benefits Transfer (EBT)

A. The Office of Family Support utilizes an electronic benefits issuance system referred to as Electronic Benefits Transfer (EBT) that allows eligible individuals and households to have their governmental benefits deposited into an account to pay for products purchased or to obtain authorized cash payments. Programs that utilize the EBT are Family Independence Temporary Assistance Program (FITAP), Kinship Care Subsidy Program (KCSP), and Food Stamp Program Benefits.

B. - B.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:450.1, 7 CFR 274.12 and 45 CFR 95(F). Section 404(g) of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support in LR 22:1231 (December 1996), amended LR 23:869 (July 1997), LR 33:

§403. Cash Benefits

A. Cash benefits and Food Stamp Program benefits shall be available through EBT in staggered cycles to on-going households beginning on the first day of each month. The last digit of the Social Security number determines the date that benefits are issued. Cash benefits will be available within the first five days of each month. Food stamp benefits will be available within the first 14 days of each month. Food stamp cases that contain elderly or disabled persons will have benefits available during the first four days of each month. Other issuance authorizations will be posted to the EBT account the day after they are authorized except in emergency circumstances in which case benefits will be available on the same day.

B. Benefits are delivered in this manner for households certified on an on-going basis. Benefits can accumulate but are accounted for according to the month of availability and will be withdrawn on a first-in-first-out basis. Each month's benefits with no activity by the client for a period of 90 days from the date of availability will be moved to dormant status. These benefits can be returned to active status at the local Office of Family Support offices upon request of the head of household or upon reapplication for assistance if the case is in inactive status. Benefits that remain in dormant status for a period of 270 days will be expunged and will not be available to the household after expungement. FITAP benefits which have been expunged may be reauthorized for

availability if the recipient has good cause for not having accessed them during the original availability period.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 272.3(c)(1)(ii) and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1322 (July 1998), amended LR 33:

§405. Participation of Retailers (Effective October 1, 1997)

A. Retail establishments which are U.S. Department of Agriculture, Food and Nutrition Service (FNS), authorized food stamp benefit redemption points must be allowed the opportunity to participate in the state EBT system. FNS approved retailer may choose to accept EBT cards for cash transactions (FITAP and KCSP). All other retail establishments must be approved by the Agency in order to participate in the cash access component of the system. Retailers approved by the Agency to participate in cash access may be charged connection fees and/or monthly lease fees for electronic and telephone equipment lines necessary to establish connection to the EBT System.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:106 (January 1998), amended LR 33:

§407. Service Fees Effective October 1, 1997

A. Recipients of cash assistance may be charged fees for accessing cash only benefits. Retailers may charge their usual and customary check cashing fee for providing cash only benefits to FITAP recipients under the following circumstances:

1. the recipient presents a valid EBT system card (known as the "Louisiana Purchase Benefit Card"); and
2. the recipient is not using the card to obtain cash in conjunction with the purchase of goods or services through the EBT system.

B. Retailers may process cash transactions through the EBT system only while the system is available. Retailers shall not dispense cash to recipients using vouchers or other means of implied payment to the retailer.

C. Retailers are prohibited from recovering losses through the EBT system due to their errors that are discovered after the transaction is completed and the recipient has left the place of business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:450.1(C)(3), R.S. 46:231.13, R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support in LR 24:107 (January 1998), amended LR 33:

§409. Participation of Approved Prepared-Meal Facilities

A. Facilities providing prepared meals that are authorized by the United States Department of Agriculture, Food and Nutrition Service and, in some instances, the agency, to accept food stamp benefits for prepared meals may be authorized redemption points using the EBT card. Participating facilities are subject to all applicable regulations of this provision. If found guilty of abuse, misuse or fraud by using the EBT card or benefits in a manner or intent contrary to the purpose of the Food Stamp Program, a facility may be permanently disqualified from participation

and have all equipment provided by the vendor disconnected and removed from the facility after due process.

1. A facility must maintain confidentiality in accordance with Food Stamp Program rules by requiring privacy when accepting payments or payment/contributions from recipients.

2. Settlement of funds to a facility will be made electronically as a direct deposit to the financial institution selected by the facility.

3. A facility must sign a contract with the agency's EBT vendor and be certified to the vendor's system prior to participation.

B. Types of Facilities.

1. Duly authorized non-residential facilities such as communal dining facilities or Meals-on-Wheels may accept food stamp benefits for single meals.

2. Duly authorized residential facilities such as homeless shelters or battered women's shelters may accept food stamp benefits for multiple meals or on-going food maintenance. Such establishments may accept food stamp payments or contributions not to exceed the biweekly rate of the facility. This requirement will ensure that recipients have adequate benefits remaining in their accounts upon departure from the establishment.

C. A facility with redemption of food stamp benefits of \$100 or more per month will be provided a Point-of-Sale (POS) terminal to enable acceptance of the EBT card. A facility with redemption of less than \$100 per month will utilize paper voucher authorizations for the acceptance of food stamp benefits.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 282.1(a).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1322 (July 1998), amended LR 33:

Chapter 9. Benefit Delivery

§901. Benefit Delivery

A. The Office of Family Support delivers benefits in the following manner:

1. Electronic Benefits Transfer; or
2. direct deposit; or
3. stored value cards; or
4. checks.

AUTHORITY NOTE: Promulgated by 7 CFR 274.12; and ACF Guidance: ACYF—IM-CC-05-03, Section 404(g) and Section 454b(b) of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule will have no effect on the stability of the family.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? This Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? This Rule will have no effect on the functioning of the family.

4. What effect will this Rule have on family earnings and family budget? This Rule will allow CCAP providers

and STEP participants to receive CCAP and STEP payments more quickly.

5. What effect will this Rule have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this is strictly an agency function.

Interested persons may submit written comments by July 26, 2007, to Adren O. Wilson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA, 70804-9065. He is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on July 26, 2007, at the Department of Social Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-129, Baton Rouge, at 9:15 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Ann Silverberg Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Electronic Benefits Transfer—Methods of Issuing Benefits Electronically**

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

This rule proposes to amend LAC 67:III, Subpart 1., Chapter 4, Electronic Benefits Issuance System to remove language that is obsolete and to include additional language to show the types of EBT Benefit Delivery.

The only cost associated with this rule is the cost of publishing rulemaking and printing policy, which is estimated to be \$160 for FY 06/07. This is a one-time cost that is routinely included in the agency's annual budget.

There are no savings to state or local governmental units.

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

This rule will have no effect on revenue collections of state or local governmental units.

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

This rule proposes technical changes to language, which will not result in any costs to directly affected persons or nongovernmental groups. The agency is already utilizing EBT for payments to recipients; therefore, this rule will not provide any additional benefits to recipients because they are already receiving their payments more quickly.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule should have no impact on competition and employment.

Adren O. Wilson
Assistant Secretary
0706#069

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

**TANF—Adjustment of Child Support Orders
(LAC 67:III.2512)**

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.2512, which provides for the formula for support obligation.

The Deficit Reduction Act of 2005 amends the provisions of the Social Security Act at Subsection 466 (a)(10) effective October 1, 2007. This amendment requires states to enact laws requiring the use of procedures under which every three years (or such shorter cycle as the state may determine), upon the request of either parent or if there is an assignment under Title IV-A of the Act, the state shall review and, if appropriate, adjust an order: using guidelines; a cost-of-living adjustment; or automated methods to identify orders to review and adjust, if appropriate.

Amendment of this Section is necessary to ensure continued compliance with federal regulations and avoid federal penalties and sanctions that could be imposed by the Administration for Children and Families, Office of Child Support Enforcement, the governing authority of the Support Enforcement Services program in Louisiana.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter C. Formula for Support Obligation

§2512. Adjustment of Child Support Orders

A. SES will send a notice every three years advising both parties to the support order of the right to request a review. If either party requests a review or if there is an assignment under Temporary Assistance to Needy Families (TANF), SES will conduct the review and, if appropriate, judicially seek adjustment of the order in accordance with the guidelines if the amount of the child support in the order differs from the amount of the child support award in accordance with the guidelines.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, §351, R.S. 9:311C, and the Social Security Act [466(a)(10)].

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 19:1178 (September 1993), amended LR 23:748 (June 1997), LR 24:957 (May 1998), LR 33:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? Implementation of this Rule may have a positive impact on family stability, as it will insure the amount of child support ordered complies with current guidelines.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? This Rule may have a positive effect on the functioning of the family by ensuring that court ordered amounts of support remain equitable.

4. What effect will this have on family earnings and family budget? This Rule should have no effect on family earnings but may have a positive effect on family budgets by allowing for current financial conditions to be considered for the adjustment of child support orders.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? This Rule does not require any action on the part of the family or local government.

Interested persons may submit written comments by July 26, 2007, to Adren O. Wilson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA, 70804-9065. He is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on July 26, 2007, at the Department of Social Services, Iberville Building, 627 North Fourth Street, 1st Floor, Room 129, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Ann Silverberg Williamson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: TANF—Adjustment
of Child Support Orders**

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

The proposed rule amends LAC 67:111.2512 to require the State to perform a mandatory review of child support orders for families receiving Temporary Assistance to Needy Families (TANF), and if appropriate, to judicially seek adjustment of the child support orders.

There is no additional cost associated with the rule except the cost of publishing rulemaking and printing policy, which is estimated to be approximately \$600.00. The agency is already providing this service. The agency has sufficient funds to cover this cost.

This rule may generate some savings in federal TANF funds; however, the amount cannot be determined at this time. The savings would be based on smaller grant amounts or closed grants resulting from higher modification of child support orders for TANF cases. Any savings would be used for other TANF-eligible activities.

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

There is no anticipated effect on revenue collections of state or local governmental units.

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

There are no anticipated costs to any persons or non-governmental groups. Adoption of this Rule may have a favorable economic impact on the child support parties by ensuring that current financial conditions are considered for adjustment of court orders.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Adren O. Wilson
Assistant Secretary
0706#070

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of State
Elections Division**

Election Expense Reimbursement
(LAC 31:I.Chapter 7)

Under the authority of R.S. 18:18(A)(5) and R.S. 36:742 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Secretary of State hereby gives notice of his intent to adopt uniform rules, regulations, forms, and instructions as to allowable election expenses and other expenses for clerks of court, registrars of voters, parish boards of election supervisors, and other election related expenses.

**Title 31
ELECTIONS**

Part I. Election Process

Chapter 7. Election Expense Reimbursement

§701. Department of State's Election Expense Manual

A. The department shall develop and adopt an Election Expense Manual that shall be utilized by clerks of court, registrars of voters, parish boards of election supervisors, and other sources (e.g., law enforcement officers) as needed to determine eligibility of reimbursement and/or payment of election expenses and other related expenses. The manual shall provide information as to the required supporting documents that must be attached to the invoice before payment can be made. In the event of an unusual expense, the manual will provide information on how to obtain approval in advance of the expense.

B. Under the provisions of the Election Code, R.S. 18:1400.3 and 1400.4, election expenses incurred by either the clerk of court, the registrar of voters, or the parish board of election supervisors will be reimbursed or paid by the Department of State from funds appropriated for that purpose. After all election expenses have been paid and reconciled, these expenses will be distributed to the state or parish governing authorities under the prorated provisions of R.S. 18:1400.3, R.S. 18:1400.4, and R.S. 18:1400.5. Invoices will then be generated to the appropriate party.

C. The procurement of all goods and services shall be done in accordance with purchasing procedures established by the Office of State Purchasing or the parish governing authority.

D. The payment for mileage shall be based upon the mileage rate established by the Office of State Travel in General Travel Regulations (Policies and Procedure Memorandum Number 49).

E. Reimbursement for copies will be based upon the state's uniform copy rate established for all state agencies. If a parish has officially adopted their own rate, a copy of the adoption of a rate must be provided to the Department of State with a request to allow the parish's copy rate.

F. The Election Expenses Manual shall be submitted to the state attorney general's office for approval. Any updates to the manual shall also receive approval by the state attorney general's office.

G. The Election Expense Manual shall be submitted to the Committee on House and Governmental Affairs and the Senate and Governmental Affairs Committee for informational purposes. Both committees shall receive any changes to the manual.

H. Copies of the final Election Expense Manual may be viewed at the Office of State Register (Claiborne Building, 1201 N. Third St., Suite 3-220, Baton Rouge, LA) or at the Department of State (Broadwing Building, Elections Division, 8549 United Plaza Blvd., Baton Rouge, LA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(5), R.S.18:1400.3, R.S. 18:1400.4, R.S. 18:1400.5, R.S. 36:742, and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§703. Clerk of Court Expenses

A. The Election Expense Manual shall clearly set forth a listing of expenses for clerks of court which are authorized for reimbursement and/or payment, and a listing of expenses for which advance approval by the secretary of state is required, and a listing of unauthorized expenses.

B. If a clerk of court's expense requires written approval in advance, the request should be submitted two weeks in advance to the secretary of state, or his designee. The approval letter or request should accompany the invoice for payment.

C. Request for approval for any emergency expense may be done by telephone or email and reduced to writing thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(5), R.S.18:1400.3, R.S. 36:742, and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§705. Registrar of Voters Expenses

A. The Election Expense Manual shall clearly set forth a listing of expenses for registrars of voters which are authorized for reimbursement and/or payment, and a listing of expenses for which advance approval by the secretary of state is required, and a listing of unauthorized expenses.

B. If a registrar of voters' expense requires written approval in advance, the request should be submitted in writing to the secretary or his designee. The approval letter or request should accompany the invoice for payment.

C. Request for approval for any emergency expense may be done by telephone or email and reduced to writing thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(5), R.S.18:1400.3, R.S. 36:742, and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§707. Parish Board of Election Supervisors Expenses

A. The Election Expense Manual shall clearly set forth a listing of expenses for the parish boards of election supervisors which are authorized for reimbursement and/or payment, and a listing of expenses for which advance approval by the secretary of state is required, and a listing of unauthorized expenses.

B. If a parish board of election supervisors' expense requires written approval in advance, the request should be submitted in writing to the secretary or his designee. The approval letter or request should accompany the invoice for payment.

C. Request for approval for any emergency expense may be done by telephone or email and reduced to writing thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(5), R.S.18:1400.4, R.S. 36:742, and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§709. Deadline for Submission of Expenses to Department of State

A. All requests for reimbursement or payment of expenses shall be submitted to the department no later than 45 days following an election or the transaction.

B. If the request for reimbursement or payment is not received within this 45 day period, the department may notify the appropriate party by certified mail that the request will be disapproved for payment if not made within 10 days from receipt of this notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(5), R.S.18:1400.3, R.S. 18:1400.4, R.S. 18:1400.5, R.S. 36:742, and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

Family Impact Statement

The proposed Rule LAC 31:I.Chapter 7 regarding election expense reimbursement should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability, and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Copies of the proposed Election Expense Manual may be viewed at the Office of State Register (Claiborne Building, 1201 N. Third St., Suite 3-220, Baton Rouge, LA) or at the Department of State (Broadwing Building, Elections Division, 8549 United Plaza Blvd., Baton Rouge, LA). Interested persons may submit written comments to Angie Rogers LaPlace, Commissioner of Elections, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, July 25, 2007 at 10 a.m. in the

Broadwing Building, Auditorium, 1st Floor at the rear of the building, 8549 United Plaza Blvd., Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for the department to receive written comments is 4:30 p.m. on July 25, 2007 after the public hearing.

Jay Dardenne
Secretary of State

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Election Expense Reimbursement**

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

There are no anticipated costs or savings to state or local governmental entities to implement the proposed rule. The rules, along with the Election Expense manual provide a more detailed version of the practice currently being utilized by the department in reimbursing election expenses.

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

There will be no effect on revenue collections of state and local government units.

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

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact of the proposed rule on competition and employment.

Charles R. Davis
Undersecretary
0706#047

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of State
Elections Division**

Election Night Transmission of Results
(LAC 31:I.Chapter 5)

Under the authority of R.S. 18:576(B), R.S. 36:742, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary of state hereby gives notice of his intent to adopt uniform rules and regulations for the transmission of election results by the clerk of court's office to the Department of State on election night.

**Title 31
ELECTIONS**

Part I. Election Process

Chapter 5. Election Night Transmission of Results

§501. Responsibility of Secretary of State

A. The secretary of state shall provide each clerk of court's office with written instructions on the election results transmission process.

B. These written instructions shall provide specific uniform tasks that must be performed by the clerk of court's office to effectively transmit election night results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:576(B) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§503. Responsibility of Clerk of Court

A. The clerk of court shall follow proper procedures for transmitting all election results, as provided by the transmittal procedures established by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:576(B) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§505. Transmission of Election Night Returns

A. The clerk of court's office shall immediately load the contents of election results cartridges onto the Department of State's laptop as they are received by the clerk of court. Once all of the cartridges for a whole precinct are loaded onto the laptop, the clerk of court's office shall immediately transmit the election results to the Louisiana Secretary of State's Elections and Registration Information Network (ERIN) and verify that the system is properly transmitting election results. The Clerk of Court may verify by checking ERIN and/or the Secretary of State's website (www.GeauxVote.com) for the posting of the first transmission of election returns, or by telephoning the department's election division.

B. Once it has been verified that the first transmission was successful, the clerk of court shall transmit all remaining election results to the Department of State at least every 30 minutes or less, until all election results cartridges have been loaded and transmitted according to transmittal procedures established by the department.

C. The transmission of election results shall begin no later than 45 minutes after the polls are closed. The clerk of court shall contact the secretary of state if he will be unable to begin transmitting election results within the 45 minute deadline.

D. If the clerk of court's office has its own computer system to display election results, the results shall be loaded onto that system only after the information has been properly transmitted to the department, and such results shall be displayed and clearly identified as the unofficial results of the clerk of court.

E. Any election results posted in the clerk of court's office obtained or displayed from of the Department of State's webpage or ERIN shall be clearly identified as the Department of State's unofficial results.

F. The clerk of court shall check ERIN and/or the secretary of state's website (www.GeauxVote.com) for the posting of the election returns in their parish to verify that all precincts are posted, with 100 percent reporting before closing their office for the evening. Each race must show all precincts reporting prior to ending the transmission process.

G. The clerk of court shall not post, release, reveal, or otherwise disseminate any election results before transmitting the results to the Department of State.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:576(B) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

Family Impact Statement

The proposed Rule LAC 31:I.Chapter 5 regarding election night transmission of results should not have any known or foreseeable impact on any family as defined by R.S. 49:972D or on family formation, stability, and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to Angie Rogers LaPlace, Commissioner of Elections, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, July 25, 2007 at 10 a.m. in the Broadwing Building, Auditorium, First Floor at the rear of the building, 8549 United Plaza Blvd., Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for the department to receive written comments is 4:30 p.m. on July 26, 2007 after the public hearing.

Jay Dardenne
Secretary of State

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Election Night Transmission of Results**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no anticipated costs or savings to state or local governmental entities to implement the proposed rule. The rules are merely codifying existing procedures being utilized on election night to transmit election returns.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no impact of the proposed rule on competition and employment.

Charles R. Davis
Undersecretary
0706#046

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department Of State Elections Division

Procurement of Voting System Drayage and Storage (LAC 31:III.Chapter 1)

Under the authority of R.S. 18:19 and 1371, R.S. 36:742, and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq. and the Louisiana Procurement Code, R.S. 39:1551 et seq., the secretary of state hereby gives notice of his intent to adopt uniform rules, regulations, forms, and instructions as to the procurement of voting system drayage and warehouse storage.

Title 31

ELECTIONS

Part III. Procurement

Chapter 1. Procurement of Voting System Drayage and Storage

§101. Definition

Drayage means the transporting or cartage of voting equipment and supplies as directed by the secretary of state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§103. Revised Statutes

A. These regulations shall be read and interpreted jointly with R.S. 39:1551 et seq.

B. A rule or regulation shall not change any explicit contract provision, commitment, right or obligation of the state, or of a contractor under a state contract in existence on the effective date of that rule or regulation. However, to the extent possible, existing contracts shall be constructed in conformity with these rules and regulations.

C. The bid process for the storage of voting systems shall be performed by the Division of Administration, Office of Facility Planning and Control, except that the Department of State may negotiate for storage space of less than 5,000 square feet in accordance with the provisions of R.S. 18:19.

D. The Office of Facility Planning and Control shall prepare the lease between the department and lessor, and the purchase order shall be prepared by the department for the lease of warehouse storage facilities.

AUTHORITY NOTE: Promulgated in accordance with Article IV Section 12 of the Constitution, R.S. 18:19, 1353, 1382, R.S. 36:1643, and R.S. 39:1551 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§105. Invitation for Drayage and Storage Bids, Public Notice, and Bid Opening

A. All contracts for the drayage and storage of voting systems shall be awarded by competitive sealed bidding on a parish or regional basis.

B. If the secretary of state determines a bid will be awarded on a regional basis for drayage and storage, the criteria shall include but not necessarily be limited to:

1. not more than four parishes in a region;
2. not more than 1,000 voting systems in a region;
3. uniform beginning delivery time with continuous drayage for each parish in a region;

4. uniform beginning return time with continuous drayage for each parish in a region;

5. input will be solicited from each clerk of court affected to be included in a regional bid; and

6. a cost savings when bid on a regional basis.

C. Competitive sealed bidding shall be accomplished by sending out written notices to persons known to be able to provide the department's requirements, and by advertising in accordance with R.S. 18:19 and 1371 at least 30 days prior to bid opening.

1. Written notices shall be mailed to those persons who have previously requested an invitation for bids for said parish or parishes, if regional, within the previous four years. The written notices shall be mailed to any parish governing authority included in the bid to be let.

2. The written notices and advertisements shall announce:

- a. the type of contract;
- b. the parish or region for which the contract is required;
- c. the method of acquiring an invitation for bids; and
- d. the date, time, and place of bid opening.

3. Advertisements shall be published in the official journal of the state and in the official journal of the parish or parishes, if regional, for which the contract is required. Advertisements shall be published in a newspaper of general circulation printed in such parish or parishes, if regional, or, if there is no newspaper printed in such parish or parishes, if regional, in a newspaper printed in the nearest parish that has a general circulation in the parish or parishes, if regional, covered by the contract. The department may publish notices in additional journals for maximum coverage.

4. A notice shall be sent to the parish governing authority and the clerk of court of the parish or parishes, if regional, for which the contract is required. The clerk of court shall prominently post such notice in his office.

5. Notification shall also be made available on the department's election webpage at www.GeauxVote.com.

D. The invitation for bids shall contain:

1. complete description of the transportation required;
2. all applicable terms, conditions, and other requirements;
3. types and limits of insurance required;
4. bid and performance bonding requirements; and
5. factors which will be used to determine responsibility and suitability of bidders.

E. Bids shall be publicly opened and read as specified in the invitation for bids in the presence of one or more witnesses. Bidders and the public may be present at any bid opening.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:19 and 1371, R.S. 36:742, and R.S. 39:1594.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§113. Evaluation of Drayage and Storage Bids

A. Drayage bids shall be evaluated based on adherence to the specifications, terms, conditions, and suitability requirements listed in the invitation for bids. The bidder must list any deviations from these specifications, terms, or conditions.

B. Storage bids shall be evaluated based on adherence to the detailed written response to all specifications, any submitted plans, inspection of the proposed site by the Department, or an authorized representative, quality, workmanship and suitability of the proposed site for the purposes set forth in the solicitation, including but not limited to the following:

1. location of the proposed space;
2. condition of the proposed site;
3. safety of the proposed site; and
4. timeliness of the availability.

C. The bidder must list any deviations from these specifications, terms or conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742 and 1594.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§115. Responsibility of Drayage and Storage Bidders

A. The secretary of state or his designee may make reasonable inquiries to determine the responsibility of prospective contractors. In making his determination, the following factors will be considered:

1. has available the appropriate financial, material, equipment, and personnel resources and expertise, or the ability to obtain them, necessary to indicate the capability to meet all contractual requirements;
2. has a satisfactory record of performance on previous state contracts and with other persons;
3. is qualified legally to contract with the state of Louisiana (Prior to award of any contract, the successful bidder shall affirm by affidavit that he or she and/or the principal officers of a corporation are not currently under any felony conviction, or lesser charge on any election related matter); and
4. has reasonably supplied any information requested by the secretary of state in establishing responsibility.

B. Each bidder who is determined to be non-responsible shall be notified in writing. Such notification shall state all reasons for disqualification, and give each bidder who is proposed to be disqualified, a reasonable opportunity to refute the reasons for disqualification at an informal hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742 and R.S. 39:1601.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§117. Correction of Withdrawal of Drayage and Storage Bids

A. Obvious errors or errors supported by clear and convincing evidence may be corrected, or bids may be withdrawn, if such correction or withdrawal does not prejudice other bidders and such actions may be taken only to the extent permitted under regulations.

1. Any bid may be withdrawn prior to bid opening.
2. Minor informalities or insignificant mistakes may be waived or corrected if such will not prejudice other bidders (i.e., if the effect on price, quantity, quality, delivery, or contractual conditions is not significant). The secretary of state may waive any informalities or allow corrections by bidders if it is in the best interest of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742 and R.S. 39:1594(F).

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§119. Drayage Bid Guaranty and Bond

A. If specified in the invitation for bids, a bond, certified check, or money order payable to the Department of State in the amount of five percent of the bid must accompany each bid submitted.

B. If a bidder withdraws his bid after bid opening, without complying with LAC 31:III.117, or fails to execute a contract within 20 days of request, the bid bond or other security shall be forfeited and deposited into the Department of the Treasury as income not available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371, R.S. 36:742, and LAC 34:1.523.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§121. Drayage Performance Bond

A. If specified in the invitation for bids, the bidder awarded the contract must submit a performance bond or letter of credit in the penal sum of one and one-half times the contract price made payable to the Department of State.

B. The performance bond shall be written by a surety or insurance company currently on the U.S. Department of the Treasury Financial Management Service list of approved bonding companies which is published annually in the *Federal Register*.

C. If a contractor fails to perform in accordance with contractual obligations, the contractor forfeits the performance bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742, R.S. 38:2219, and R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§123. Forfeiture of Bonds for Drayage

A. Actions by bidders causing forfeiture of bonds as stated in §119 and §121 herein shall be cause for removal of said bidders from the department's bid list and will support a determination of non-responsibility for the bidder(s) and its principals for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742 and R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§125. General Guaranty for Drayage

A. Contractor agrees:

1. to maintain all insurance required in the invitation for bids during the term of the contract;
2. to pay all taxes, permits, licenses and fees;
3. to give all notices and comply with all laws, ordinances, rules and regulations of each city and/or town in the parish in which the contractor is performing his duties, and of the state of Louisiana;
4. to protect the state from loss in case of an accident or mishandling by contractor's employees; and
5. to make available the equipment, labor, insurance, etc. for drayage of voting machines at times other than for elections. Prices of the above mentioned to be negotiated between the contractor and department or to be determined by competitive bidding in accordance with small purchase provisions of the procurement code and subsequent applicable executive orders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742 and R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§127. Award of Drayage and Storage Contracts

A. All contracts shall be awarded to the lowest responsive and responsible bidder within 30 days of bid opening, unless more time is needed by the department to investigate suitability and the bidder is notified accordingly.

1. A responsive bidder means a person who has submitted a bid which conforms in all substantive respects to the invitation for bids, including the specifications set forth in the invitation.

2. The award shall be made by unconditional acceptance of a bid without alteration or correction, except as authorized in §117.

B. If a bidder who is the lowest responsive and responsible bidder declines to accept the contract, the award may be made to the next lowest bidder or the solicitation may be canceled and re-advertised if it is determined to be in the best interest of the state. Any bidder who has declined to accept the contract previously offered shall be ineligible to bid on the subsequent solicitation. A bidder who declines a contract or fails to produce an acceptable performance bond may also be debarred from future bidding.

C. If a bidder who is the lowest bidder fails to meet all criteria as a responsive and/or responsible bidder, the award may be made to the next lowest bidder who meets all criteria as a responsive and responsible bidder or the solicitation may be canceled and re-advertised if it is determined to be in the best interest of the state.

D. In the case of "tie bids", award shall be made in a manner that will discourage future "tie bids". A written justification for the determination of award must be made by the secretary of state.

E. In-state bidders shall be preferred to out-of-state bidders on a reciprocal basis when there is a tie bid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742, R.S. 39:1594 and 1595.1.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§129. Rejection of Drayage or Storage Bids; Cancellation of Drayage or Storage Solicitations

A. The secretary of state reserves the right to reject any and all bids when it is in the best interest of the state of Louisiana.

1. Reasons for rejecting a bid include, but are not limited to:

- a. a determination of none responsibility of a bidder(s); or
- b. the bid is not responsive (i.e., it did not meet specifications or comply with terms and conditions).

2. Reasons for canceling a solicitation include, but are not limited to:

- a. the department no longer requires the service;
- b. bids received exceeded budgeted funds or were determined by the department to be unreasonable;
- c. the solicitation was flawed (i.e., specifications were not complete or were ambiguous);
- d. there is reason to believe that the bids received may have been collusive; or
- e. there is inadequate competition indicated by low response to the solicitation.

B. When bids are rejected or a solicitation is canceled, written notices shall be given to the bidders, giving the reasons for the rejection or cancellation.

C. When a solicitation is canceled, where appropriate, bidders will be given the opportunity to bid on the new solicitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742, R.S. 39:1581 and 1599.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§131. Emergency Drayage Procurements

A. The secretary of state or his designee may declare that an emergency situation exists when:

- 1. property is subject to loss or destruction as a result of an accident or natural disaster within 30 days of an election;
- 2. the functioning of the department will be threatened; or
- 3. the health and safety of any person is threatened.

B. Every effort shall be made to obtain bids from three or more bidders. Bids shall be solicited from bonded, insured draymen or lessors currently under contract with the department.

1. If time permits, written quotations shall be solicited.

2. If time does not permit, telephone quotations shall be solicited.

C. The secretary of state shall make a written determination stating the basis for the declaration of an emergency, the procedure used prior to selecting a contractor, and the basis for awarding to a particular contractor.

D. The secretary of state shall keep all records relating to emergency procurements at least three years after the Legislative Auditor's Office have completed their audit of the department for the fiscal year in question.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742 and R.S. 39:1598.

HISTORICAL NOTE: Promulgated by the Department of State, Elections, LR 33:

§133. Collusive Bidding or Negotiations of Drayage or Storage Contracts

A. The attorney general shall be notified in writing whenever collusion is suspected among bidders. Such notice shall contain all known facts.

B. All documents involved in a procurement in which collusion is suspected shall be retained for three years after the Legislative Auditor's Office have completed their audit of the department for the fiscal year in questions or until the attorney general notifies the department that they may be destroyed, whichever is longer. These documents shall be made available to the attorney general or his designee upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742 and R.S. 39:1626.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§135. Drayage and Storage Specifications

A. All specifications shall be written so as to promote as much competition as possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742 and R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§141. Drayage Contract Requirements

A. A contract cannot be transferred, subcontracted, or assigned prior to execution of said contract. After execution of the contract, a contractor may assign or subcontract his obligations under the contract only with the written consent of the secretary of state, which consent shall not be unreasonably withheld.

B. To the extent that a prospective contractor proposes to utilize subcontractors in performing the contract, the prospective prime contractor shall not be considered to be responsible unless recent performance history indicates an acceptable subcontracting system determined by the secretary of state. All subcontractors must meet the same standards for responsibility, bonds, and insurance as the prime contractor.

C. If a bidder is the lowest responsible and responsive bidder in more than one parish, bidders will be limited to contracting for parishes with an aggregate total of not more than 1,000 voting systems or four parishes. In the event that those numbers are exceeded, the contracts will be awarded in the order in which bids were taken.

D. The term of the contract shall be one year or less with an option to renew for two additional one-year terms. All contracts shall end on December 31.

E. If the holder of multiple drayage contracts fails to perform in accordance with the provisions of any of his contracts, the secretary of state may cancel any and all contracts with that contractor. In addition, the contractor may be suspended from future bidding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371, R.S. 36:742 and R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§143. Right to Protest Drayage or Storage Contract Award

A. All proceedings herewith shall be carried out in accordance with the Conduct of Hearing Rules set forth in LAC 34:I.Chapter 31.

B. Any bidder may protest a solicitation or an award of a contract to the secretary of state.

C. In regard to the solicitation of a drayage or storage contract, the protest must be made in writing at least two days prior to the opening of bids.

D. In regard to the award of any contract, a written protest must be made within 14 days after the contract is awarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742 and R.S. 39:1671.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§145. Legal and Contractual Remedies for Drayage and Storage of Voting Systems

A. The secretary of state or his designee is authorized to settle and resolve any protest prior to court action. If a protest is not resolved by mutual agreement, the secretary of state or his designee shall, within 14 days, issue a decision in writing. The decision shall:

1. state the reasons for the action taken; and
2. inform the protestant of its right to administrative and judicial review as provided in Part VI of the Procurement Code.

B. Notice of decision shall be furnished immediately to the protestant and any other party intervening.

C. The decision of the secretary of state or his designee shall be final unless:

1. the decision is fraudulent; or
2. the person has appealed to the Commissioner of Administration in accordance with R.S. 39:1683 and R.S. 39:1685.

D. If a protest is lodged as provided for in these regulations, the department shall not proceed with the solicitation or award, unless the secretary of state declares in writing that proceeding is necessary to protect the substantial interest of the state. Upon such determination, no court shall enjoin progress under award except after notice and hearing.

E. When a protest is sustained and the protesting bidder should have been awarded the contract but is not, the bidder shall be reimbursed for reasonable costs associated with the solicitation, including bid preparation costs other than attorney's fees. Any administrative determination of such costs shall require approval of the attorney general.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742, R.S. 39:1671, R.S. 18:1673 and R.S. 18:1685.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§147. Suspension and Debarment of Drayage or Storage Contractor

A. A bidder and its principal officers and agents may be debarred or suspended from consideration for award of contracts during an investigation for probable cause if it is in the best interests of the state.

B. The secretary of state may suspend or debar a person for cause after notice to the bidder has been given and the bidder has had a reasonable opportunity to respond. A bidder may be suspended if the secretary of state determines that there is probable cause to believe that the bidder has engaged in any activity to lead to debarment.

1. The period of time for the suspension of a drayage or storage contract shall be a minimum of one complete cycle of bidding in all parishes.

2. The period of time for debarment of a drayage or storage contract shall be a minimum of two complete cycles of bidding in all parishes.

C. Causes for debarment shall be determined in accordance with R.S. 39:1672(C).

D. In addition to the provisions of R.S. 39:1672(C), the secretary of state may debar a bidder for the following reasons:

1. the bidder has withdrawn a bid after an award, for whatever reason, more than once; or

2. the secretary of state may declare other specific reasons for suspension or debarment which is in the best interests of the state.

E. The secretary of state shall notify the debarred or suspended bidder in writing of the decision stating the reasons for the action taken and the amount of time of suspension or debarment. Such notification shall also inform the debarred or suspended bidder's rights to administrative and judicial review.

F. The decision of the secretary of state or his designee shall be final unless:

1. the decision is fraudulent; or
2. the person has appealed to the commissioner of administration in accordance with R.S. 39:1684.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742 and R.S. 39:1672.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§149. Repeal Prior Rules and Regulations

A. All rules and regulations on voting machine drayage and storage that were previously adopted by the Department of Elections and Registration are hereby repealed in their entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

Family Impact Statement

The proposed Rule LAC 31:III.Chapter 1 regarding procurement of voting system drayage and warehouse storage should not have any known or foreseeable impact on any family as defined by R.S. 49:972D or on family formation, stability, and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to Angie Rogers LaPlace, Commissioner of Elections, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, July 25, 2007 at 10 a.m. in the Broadwing Building, Auditorium, 1st Floor at the rear of the building, 8549 United Plaza Blvd., Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for the department to receive written comments is 4:30 p.m. on July 26, 2007 after the public hearing.

Jay Dardenne
Secretary of State

FISCAL AND ECONOMIC IMPACT STATEMENT

FOR ADMINISTRATIVE RULES

RULE TITLE: Procurement of Voting System Drayage and Storage

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

There are no anticipated costs or savings to state or local governmental entities to implement the proposed rule. The proposed rule coincides with current practices which are being utilized when procuring drayage or warehouse storage for voting systems.

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

There will no effect on revenue collections of state local government units.

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

There will be no costs and/or economic benefits to directly affected person or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact of the proposed rule on competition and employment.

Charles R. Davis
Undersecretary
0706#045

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of State
Elections Division**

**Recognition of Political Parties
(LAC 31:I.Chapter 9)**

Under the authority of R.S. 18:441, R.S. 36:742, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Secretary of State hereby gives notice of his intent to adopt uniform rules and regulations specifying the minimum guidelines to be used in recognizing political parties in Louisiana.

**Title 31
ELECTIONS**

Part I. Election Process

Chapter 9. Recognition of Political Parties

§901. Purpose

A. The purpose of this rule is to establish minimum guidelines to be used by the secretary of state in recognizing political parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:441 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§903. Definitions

A. For the purposes of this rule, the following definitions shall apply.

Deceptively Similar—may mean a political party name which deceives the general public into believing that said political party is that of another party, when in fact, the two parties are not affiliated with each other.

Identical—may mean the same exact political party name, even though the two parties are not affiliated with each other.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:441 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§905. Political Party Recognition Based on Registered Voters

A. A political party which seeks recognition must have at least 1,000 registered voters in the state of Louisiana who are registered as being affiliated with such political party.

B. A political party shall request a list of registered voters from the secretary of state who are registered as being affiliated with the political party who is seeking recognition; in order to verify that the political party has at least 1,000 registered voters. The secretary of state shall date this list of registered voters.

C. This list of registered voters shall be provided by the secretary of state's office, using the political party name given by the requestor, and shall be limited to the exact name provided. For example, a request for a list of registered

voters with the "Green Party" would not include "Green," "Green Grass," "Green Labor," "Green Peace," "Greenpiece" or "Greens."

D. All of the following requirements shall be met by the political party for recognition by the secretary of state.

1. A notarized registration statement must be filed with the secretary of state no later than 90 days prior to the opening of the qualifying period for any election.

2. The registration statement must be accompanied by a fee in the amount of \$1,000, made payable to the Department of State only by certified or cashier's check on a state or national bank or credit union, United States postal money order, or money order issued by a state or national bank or credit union or money order.

3. The registration statement must be accompanied by a list of registered voters with the exact political party name, showing at least 1,000 voters and dated no less than 90 days prior to the opening of the qualifying period for any election.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:441 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§907. Defects in a Registration Statement

A. The secretary of state may, at his discretion, reject the filing of a registration statement for any of the following reasons.

1. A political party's name is identical to the name of any other existing political party, yet the two political parties are not affiliated based on official party documentation.

2. A political party's name is deceptively similar to the name of any other existing political party, based on official party documentation.

3. A political party's name is deliberately misleading or fraudulent in any respect.

4. A political party's emblem is deceptively similar to an emblem or trademark of any other existing political party.

5. A political party that attempts to be recognized in this state with the name "Independent" or "the Independent Party."

6. A political party's registration statement is incomplete and/or does not provide the required information. In such a case, the political party may resubmit a completed notarized registration statement without having to pay an additional registration fee. The secretary of state must receive a resubmitted registration statement no less than 90 days prior to the opening of the qualifying for any election, for recognition to apply in that primary or general election.

B. The secretary of state shall return the rejected registration statement, along with the registration fee, except in the case of an incomplete statement, where the political party chooses to resubmit a completed notarized registration statement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:441 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§909. Objection to a Registration Statement

A. Any person aggrieved by the recognition of political party based on the filing of a registration statement alleged to be false, fraudulent, deceptive, substantially misleading or otherwise prohibited by law may file an objection in writing to the secretary of state.

B. The objection must be filed within two years of the political party's registration filing.

C. The secretary of state must determine the validity of the objection, by determining whether the political party's registration statement is defective, based on the objection and any official documentation provided with the objection.

D. If the secretary of state determines that the objection is valid, he shall declare the political party's registration statement null and void and cancel the political party's recognition. The secretary of state shall provide written notice of his decision and the effective date to the political party.

E. The secretary of state shall not return the registration fee when a political party's registration is canceled pursuant to the provisions herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:441 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§911. Cessation of a Recognized Political Party

A. A political party that has been recognized in Louisiana and the rules herein shall cease to be recognized if no registered member of the party qualifies as a candidate in a primary election for any period of four consecutive years.

B. The four year consecutive period shall run from the date the political party becomes recognized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:441 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§913. Notification

A. The secretary of state shall provide written notice to a political party that seeks recognition that the political party's registration statement is rejected for any of the reasons set forth in §907 through §911 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:441 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

Family Impact Statement

The proposed Rule LAC 31:I.Chapter 9 regarding recognition of political parties should not have any known or foreseeable impact on any family as defined by R.S. 49:972D or on family formation, stability, and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to Angie Rogers LaPlace, Commissioner of Elections, Department of State, P. O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for July 25, 2007 at 10 a.m. in the Broadwing Building, Auditorium, First Floor at the rear of the building, 8549 United Plaza Blvd., Baton Rouge, LA. At that time, all

interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for the department to receive written comments is 4:30 p.m. on July 26, 2007 after the public hearing.

Jay Dardenne
Secretary of State

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Recognition of Political Parties

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

There are no anticipated costs or savings to state or local governmental entities to implement the proposed rule. The proposed rule adopts minimum guidelines to be used in recognizing political parties in Louisiana consistent with current law and is merely codifying existing procedures.

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

There will be no effect on revenue collections of state and local government units.

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

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact of the proposed rule on competition and employment.

Charles R. Davis
Undersecretary
0706#044

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of State Elections Division

Registrars of Voters
(LAC 31:II.Chapter 1)

Under the authority of R.S. 18:18, R.S. 18:31, R.S. 18:53, R.S. 18:55, R.S. 18:59, R.S. 36:742, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary of state hereby gives notice of his intent to adopt uniform rules and regulations for the following: procedures for registrars of voters to use in the conduct of their office and the entry of data on the statewide voter registration system; adopt uniform fees schedules for the department to charge for the procurement of statewide voter registration lists; procedures for merit evaluations of unclassified employees; professional review committee; procedures for annual expenditure report; and procedures for the removal of a registrar of voters by the state board of election supervisors.

Title 31 ELECTIONS

Part II. Voter Registration

Chapter 1. Registrars of Voters

§101. ERIN Manual

A. The Department of State operates a statewide voter registration computer system for the registration of voters throughout the state, the Elections and Registration Information Network, commonly referred to as "ERIN."

B. The secretary of state shall provide all registrars of voters with an ERIN Manual to be utilized with respect to the statewide voter registration computer system. This manual shall establish procedures with respect to all records, data, and information required for the registration of voters and the transfer of information to the department. All registrars of voters shall utilize this manual to ensure the proper registration of voters. A uniform cost for the preparation of lists of registered voters shall be included in the user manual. Any updates of the manual provided by the department to the registrars of voters shall be incorporated into the manual by each registrar of voters.

C. The ERIN Manual shall be submitted to the Committee on House and Governmental Affairs and the Senate and Governmental Affairs Committee for informational purposes. Both committees shall be kept informed of any changes to the manual.

D. Copies of the ERIN Manual can be viewed at the Department of State, Elections Program, Broadwing Building, First Floor, 8549 United Plaza, Baton Rouge, LA or at each office of the registrar of voters throughout the state, or at the Office of the State Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:31, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§103. Sale of Voter Registration Lists

A. The Department of State generates voter registration lists through ERIN and establishes guidelines that shall be provided to the registrars of voters for the sale of voter registration lists to the general public.

B. Voter registration lists can either be requested through the department's website www.GeauxVote.com or through a registrar of voter's office. All lists must be paid for in advance based upon an estimate provided by either the department or registrar of voters to the client. Payment shall either be given to the department or the registrar of voters' office. If the registrar of voters' office receives the payment, the registrar shall fax a copy of the check to the department and mail the check to the department within 48 hours. Checks and money orders made payable to the Department of State are the only acceptable forms of payment.

C. The department hereby establishes the cost schedules detailed below for the sale of voter registration lists:

1. Hardcopy Lists

Number of Voters	Cost
1-2,000 voters	\$35
2,001 +	\$0.0175 x number of voters, not to exceed \$5,000
(If the total number of voters is less than 2,001, the minimum charge of \$35 plus \$7.50 delivery applies.) Each additional copy of a list would cost one-half the cost of the original list, plus the delivery charge.	

a. This list can be requested without districts and shall contain the following information: parish, registration number, ward, precinct, name, party, year of birth, sex, race, last-vote-date, residence, and mailing addresses. If requested, the list will provide telephone numbers.

b. This list can be requested with districts and shall contain the same information above plus the following information: congressional, senatorial, representative, police jury/council, justice of the peace, school board, city district, district court, public service commission, board of elementary and secondary education, tax ward district, and eight special districts. If requested, the list will provide telephone numbers.

2. Mailing Labels (24 labels on a page)

Number of Voters	Cost
1-2,000 voters	\$40
2,001 +	\$0.02 x number of voters, not to exceed \$5,000
(If the total number of voters is less than 2,001, the minimum charge of \$40 plus \$7.50 delivery applies.) Each additional page of labels would cost \$0.02 times the number of voters, plus the delivery charge.	

a. These labels may be ordered with the following information:

- i. voters name and mailing address only; or
- ii. voters name, mailing address, ward and precinct.

3. CD-ROM

Number of Voters	Cost
1-2,000	\$20
2,001 +	\$0.01 x number of voters, not to exceed \$5,000
(If the total number of voters is less than 2,000, the minimum charge of \$20 plus \$7.50 deliver applies.) Each additional copy of the CD-Rom would cost one-fourth the cost of original, plus the delivery charge.	

a. Data on the CD is in text format.

b. The CD-Rom shall provide the following information: parish, name, ward, precinct, party, residence and mailing addresses, sex, race, year of birth, status, registration date, registration number, last 20 dates voted, and all district information.

c. If requested, the telephone number will be provided.

4. Electronic Mail

Number of Voters	Cost
1-2,000	\$20
2,001 +	\$0.01 x number of voters, not to exceed \$5,000
(If the total number of voters is less than 2,000, the minimum charge of \$20 applies. There is no delivery charge for electronic mail.)	

a. Data submitted through electronic mail shall be in text format.

b. The electronic mail transmittal shall provide the following information: parish, name, ward, precinct, party, residence and mailing addresses, sex, race, year of birth, status, registration date, registration number, last 20 dates voted, and all district information.

c. If requested, the telephone number will be provided.

5. Delivery. The cost for courier service shall be \$7.50 per job, except for jobs picked up or mailed electronically.

6. Special Requests. The prices above apply to requests using the standard criteria. A \$100 per hour programming charge will be added for any "special request." Registrars of voters must check with the information technology section of the department prior to agreeing to a request that does not conform to the standard criteria.

D. The client shall review the list immediately upon receipt. If there is a problem with the list, the client must immediately notify the department or registrar of voters. If the client has a valid reason for seeking a new list or getting a refund, they have seven days to return the original voter registration list to the department or registrar of voters to receive a new list or a refund. If the original list has been reproduced, no refund will be issued and a new list will be subject to the appropriate costs. If the reasoning is determined to be justifiable by the department, a new list will be provided or a refund issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:31, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§105. Merit Evaluation of the Registrar of Voters

A. The secretary of state hereby designates the Director of NVRA, commonly referred to as the Director of Registration, in the Department of State to perform the annual evaluation of parish registrars of voters, subject to approval by the commissioner of elections.

B. Annually, the secretary or his designee shall prepare written instructions and forms which shall be submitted to the registrars of voters no later than November 1 for their evaluations. The form shall include mandated duties, non-mandated duties, and extended duties.

C. The parish registrar of voters will have until December 15 to submit his completed form with supporting documentation to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:55, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§107. Merit Evaluations of the Chief Deputy and Confidential Assistant

A. The parish registrar of voters shall perform the annual evaluation of the chief deputy and confidential assistant.

B. Annually, the secretary or his designee shall prepare written instructions and forms which shall be submitted to the registrars of voters for reviewing the chief deputy and confidential assistant's performance no later than November 1.

C. The parish registrar of voters shall be responsible for evaluating his chief deputy and confidential assistant. These evaluations shall be submitted to the department no later than December 15 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:59, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§109. Professional Review Committee

A. The commissioner of elections shall submit a formal notification to the Professional Review Committee of the Louisiana Registrar of Voters Association of any registrar of voters who does not perform a mandated duty as defined by the annual performance evaluation form.

B. The Professional Review Committee shall investigate the matter and submit a copy of its findings to the Board of Directors of the Louisiana Registrar of Voters Association. The Board of Directors shall submit a written copy of the findings and any recommended corrective action to the commissioner of elections and the secretary of state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§111. Annual Expenditure Report to Parish Governing Authority

A. Annually, the secretary of state shall provide each parish registrar of voters with an expenditure summary report for all expenses paid by the state on behalf of each registrar of voters. The report shall be mailed out by the department no later than January 31. This information should be combined with expenses paid by the parish police jury into a consolidated report. This report must be submitted annually by the registrar of voters to the parish governing authority and parish clerk of court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 36:742, and R.S. 42:283.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§113. Removal of Registrar of Voters for Cause

A. A proceeding for the removal of a registrar shall be commenced by the state board of election supervisors upon the receipt of a resolution from a parish governing authority which includes the following information:

1. accusations of willful misconduct relating to the registrar's official duty, or willful and persistent failure to perform his duties, or persistent public conduct prejudicial to the administration of the laws relative to the registration of voters that brings the office into disrepute, or conviction of a felony; and

2. favorable adoption of the resolution by at least two-thirds of the membership of the parish governing authority.

B. A proceeding for the removal of a registrar may be commenced by the state board of election supervisors upon the written complaint filed with the state board of election supervisors by one or more natural persons of legal age who reside within the parish served by the registrar whose removal is sought, which complaint includes the following information:

1. the name and mailing address of each complainant;
2. the name of the registrar whose removal is sought and the parish he serves;

3. reference to the specific grounds for removal as set out in R.S. 18:53, upon which the complaint is based;

4. a full statement of the facts, commissions or omissions upon which the complaint is based, including the names of persons, dates, places and circumstances, so as to fully inform the registrar as to the factual basis for the complaint. No evidence of any fact not alleged in the complaint shall be brought before the board during the hearing;

5. a clear statement that the complainant is seeking the removal of the registrar from office; and

6. signed by each complainant and verified under oath before a notary or two witnesses.

C. The original resolution or complaint shall be filed with the chairman of the state board of election supervisors by personal delivery to his office, or by regular or certified mail. The parish governing authority or complainant shall also mail a copy of the resolution or complaint to the accused registrar by certified mail, return receipt requested with restricted delivery to addressee only.

D. Upon receipt of the resolution or complaint, the chairman of the board shall examine each resolution or complaint and may reject the resolution or complaint for filing if he finds that it fails to state a cause of action for removal pursuant to R.S. 18:53 or fails to comply with the filing requirements herein. If the chairman rejects the filing of the resolution or complaint, he shall notify the board, the parish governing authority or complainant and the registrar accordingly. If the chairman accepts the filing of the resolution or complaint, he shall notify the board, the registrar, and either the parish governing authority or the complainant of the scheduled hearing date, time and place, to be set no later than 30 days from receipt of the complaint. All notices to the registrar and parish governing authority or complainant shall be by certified mail return receipt requested with restricted delivery. The notice of hearing shall be in compliance with the provisions of R.S. 49:955.

E. If the chairman rejects the filing of the resolution or complaint, the parish governing authority or complainant may amend the resolution or complaint to state a claim within 10 days of notification of the rejection of the filing. If the parish governing authority or complainant fails to file an amended resolution or complaint within the time allowed, the chairman of the board shall dismiss the resolution or complaint.

F. The board may consolidate complaints if they relate to common issues or to the same actions or events.

G. The board shall compile and maintain an official record in connection with each resolution or complaint, containing at a minimum a copy of the following:

1. the resolution or complaint, and any board authorized amendments;

2. any written submissions by the parish governing authority, respondent(s), or other interested persons, including any responses authorized by the board;

3. a written report of any investigation conducted or commissioned by the board;

4. copies of all notices and correspondence to or from the board in connection with the resolution or complaint;

5. originals or copies of any tangible evidence produced at any hearing conducted pursuant to these rules;

6. original tape recording produced at any hearing conducted pursuant to these rules and a copy of any hearing transcript; and

7. a copy of any final decision issued by the board.

H. The respondent registrar may file a written answer to the resolution or complaint, notarized or witnessed as provided for herein, prior to the hearing wherein he may admit or deny specifically each of the allegations of the resolution or complaint, and otherwise answer to the resolution or complaint. The board for good cause shown may allow an extension of the time period for answering, if requested by the respondent.

I. Postponements or continuances of any hearing are subject to board approval.

J. Either party or the board, at their cost, may order copies of the transcription of the testimony using the state's uniform fee schedule for copies of public records.

K. The hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act. A complainant, respondent, or other person who testifies or presents evidence at the hearing may, but need not, be represented by an attorney.

L. The board shall render its decision within 10 days after the hearing. All decisions shall comply with the requirements of R.S. 49:958.

M. A rehearing may be requested within 10 days from the date of the board's written decision on the grounds listed in R.S. 49:959, and if requested timely, the board shall follow the procedures for rehearing in accordance with R.S. 49:959.

N. If the respondent registrar requests a rehearing, the decision upon rehearing, or denial thereof, shall become final 30 days after the mailing date shown thereon, unless the registrar files a petition for judicial review by trial de novo in the Nineteenth Judicial District Court before the expiration of the 30 day period.

O. All filings and correspondence shall be addressed to: State Board of Election Supervisors, Secretary of State, Department of State, Box 94125, Baton Rouge, LA. 70804-9125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 36:742 and R.S. 18:53.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

§115. Repeal Prior Rules and Regulations

A. All previously adopted rules promulgated by the Department of State and the Department of Elections and Registration regarding registrars of voters and the ERIN Manual are hereby repealed in their entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:

Family Impact Statement

The proposed Rule LAC 31:II.Chapter 1 regarding registrars of voters should not have any known or foreseeable impact on any family as defined by R.S. 49:972D or on family formation, stability, and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Copies of the ERIN Manual may be viewed at the Office of State Register (Claiborne Building, 1201 N. Third St., Suite 3-220, Baton Rouge, LA) or at the Department of State (Broadwing Building, Elections Division, 8549 United Plaza Blvd., Baton Rouge, LA). Interested persons may submit written comments to Angie Rogers LaPlace, Commissioner of Elections, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, July 25, 2007 at 10 a.m. in the Broadwing Building, Auditorium, First Floor at the rear of the building, 8549 United Plaza Blvd., Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for the department to receive written comments is 4:30 p.m. on July 26, 2007 after the public hearing.

Jay Dardenne
Secretary of State

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Registrars of Voters

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

There are no anticipated costs and savings to state or local governmental entities to implement the proposed rule. Proposed rule coincides with current practices which are being utilized and with the current fee structure and media formats, including lists on CD-ROM and lists through electronic mail, being utilized.

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

There will be no effect on revenue collections of state and local governmental units.

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

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact of the proposed rule on competition and employment.

Charles R. Davis
Undersecretary
0706#043

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Environmental Quality Office of the Secretary

LDEQ Construction Advisory Document

The department has compiled the *LDEQ Construction Advisory Document* to address groundwater investigation and impact, and provide administrative and general technical guidance to regulated facilities in evaluating and making decisions regarding proposed construction activities that may occur in areas of contamination. In addition to the elements included in this advisory, decisions should be made based on site history, facility knowledge of process, and best professional judgment.

The department is soliciting comments on this document. Comments are due no later than 4:30 p.m., July 20, 2007, and should be submitted to Sharon Parker, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to Sharon.parker@la.gov. The *LDEQ Construction Advisory Document* is posted on the Department's public website at the following address:

http://www.deq.louisiana.gov/portal/LinkClick.aspx?link=technology%2fDEQ_construction_document+_2.pdf&tabid=70.

Herman Robinson, CPM
Executive Counsel

0706#015

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Duty to Establish Remediation Plans Procedures

R.S. 30:2015.1(K) states, "The Department of Environmental Quality shall establish rules and procedures for the receipt, evaluation, and approval or modification of plans for evaluation or remediation. The rules established by the agency shall be based upon risk-based standards sufficient to protect human health and the environment."

The Department of Environmental Quality, Office of Environmental Assessment, hereby gives notice of its determination that the Risk Evaluation/Corrective Action Program (RECAP), LAC 33:I.Chapter 13, fully satisfies the requirements of R.S. 30:2015.1(K).

The RECAP document is available for purchase or inspection from 8 a.m. until 4:30 p.m., Monday through Friday, from the Office of the Secretary, Legal Affairs Division, Regulation Development Section. For RECAP document availability at other locations, contact the Regulation Development Section at (225) 219-3550. The

RECAP document may also be reviewed on the Internet through the department's website: www.deq.louisiana.gov.

Herman Robinson, CPM
Executive Counsel

0706#016

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs Division

New and Revised Air Permit Application Forms

The Office of Environmental Services, Air Permits Division (APD), has drafted and finalized revised application forms to be used for all applications to the APD. The forms have been structured to assist the user in providing the level of detail and types of information required by the APD for these permit actions. This will reduce the need for requests for additional technical information, thus enhancing processing time for these permit applications.

The *Application for Approval of Emissions of Air Pollutants from Part 70 Sources* will be used to apply for Part 70 and Prevention of Significant Deterioration (PSD) permits. The *Application for Approval of Emissions of Air Pollutants from Minor Sources* will be used to apply for State Operating Permits. A new form, *Application for Approval of Miscellaneous Air Permitting Activities*, has also been developed to standardize requests for air permit exemptions, variances, administrative amendments, permit rescissions, application withdrawals, changes of tank service, relocations of a portable facility, and authorizations to construct and operate.

Applicants may begin to use the revised *Application for Approval of Emissions of Air Pollutants from Part 70 Sources* and the revised *Application for Approval of Emissions of Air Pollutants from Minor Sources* forms immediately. The APD will continue to accept forms that are currently in use until December 31, 2007. Beginning January 1, 2008, only applications submitted using these revised forms will be accepted for processing.

Applicants may also begin use of the new *Application for Approval of Miscellaneous Air Permitting Activities* form immediately. The APD will accept requests for these actions using any existing methods and/or forms that were established for the purpose of requesting these permitting actions until July 31, 2007. Beginning August 1, 2007, the APD will no longer accept applications that are submitted by any means other than the new form.

The following table provides information on implementation of the new and revised forms and provides links to electronic versions of the forms. It also specifies the limited remaining period of time for which the existing forms or methods may be used.

Air Permit Application Forms or Requests				
Name of Application Form or Type of Request		Electronic Version of Form	Date Form or Request May Be Used	Last Date Form or Request Will Be Accepted
<i>Application for Approval of Emissions of Air Pollutants from Part 70 Sources (rev. 0)</i>	Revised Form	http://www.deq.louisiana.gov/portal/tabid/2758/Default.aspx	immediately	N/A
<i>Application for Approval of Emissions of Air Pollutants from Minor Sources (rev. 0)</i>	Revised Form	http://www.deq.louisiana.gov/portal/tabid/2758/Default.aspx	immediately	N/A
<i>Application for Approval of Miscellaneous Air Permitting Activities (rev. 0)</i>	New Form	http://www.deq.louisiana.gov/portal/tabid/2758/Default.aspx	immediately	N/A
<i>Application for Approval of Emissions of Air Pollutants (June 21, 2004)</i>	Older Form	http://www.deq.louisiana.gov/portal/Portals/0/permits/air/titlev5.zip	Now through Dec. 31, 2007	Dec. 31, 2007
Requests for air permit exemptions, variances, administrative amendments, permit rescissions, application withdrawals, changes of tank service, relocations of a portable facility, and authorizations to construct and operate	Existing Methods or Forms	N/A	Now through July 31, 2007	July 31, 2007

The APD will host two free presentations to introduce these forms to the regulated community, the public, and any other interested parties as follows:

New and Revised Air Permit Application Forms
 Tuesday, July 24, 2007
 9:30 am* and 1:00 pm*
 DEQ Headquarters - Oliver Pollock Room
 602 North 5th Street, Baton Rouge, LA

*The same material will be presented in each session.

Pre-registration is required for attendance. For pre-registration, contact Darlene Doshier-Collard at (225) 219-3008 or darlene.doshier-collard@la.gov. Registrants should indicate which session is desired. Individuals with a disability who need an accommodation in order to participate should contact Darlene Doshier-Collard.

For further information, contact Cheryl Sonnier Nolan, Office of Environmental Services, Air Permits Division, at 225-219-3010 or cheryl.nolan@la.gov.

Herman Robinson, CPM
 Executive Counsel

0706#033

POTPOURRI

**Department of Environmental Quality
 Office of the Secretary
 Legal Affairs Division**

St. James Parish Ozone Maintenance Plan

Under the authority of the Louisiana Environmental Quality Act, R. S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Assessment, Plan

Development Section, will submit a proposed revision to the ozone maintenance plan for St. James Parish. This revision to the State Implementation Plan (SIP) is mandated under Section 110(a)(1) requirements of the 1990 Clean Air Act Amendments (CAAA).

According to EPA guidance issued May 20, 2005, areas that are designated attainment for the 8-hour ozone National Ambient Air Quality Standards (NAAQS) and are designated attainment for the 1-hour ozone NAAQS with an approved maintenance plan must submit a revision to the SIP.

A public hearing will be held at 1:30 p.m. on July 25, 2007, in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA. Should individuals with a disability need an accommodation in order to participate, please contact Vivian H. Aucoin at (225) 219-3575 or at the address listed below. Interested persons are invited to attend and submit oral comments on the proposal.

All interested persons are invited to submit written comments concerning the SIP revision no later than 4:30 p.m., August 1, 2007, to Vivian H. Aucoin, Office of Environmental Assessment, Box 4314, Baton Rouge, LA 70821-4314 or to FAX (225) 219-3582 or by e-mail to vivian.aucoin@la.gov.

A copy of the SIP revision for St. James Parish may be viewed from 8 a.m. to 4:30 p.m. in the DEQ Public Records Center, Room 127, 602 N. Fifth Street, Baton Rouge, LA. The document is available on the Internet at www.deq.louisiana.gov/portal/Default.aspx?tabid=2381.

Herman Robinson, CPM
 Executive Counsel

0706#014

POTPOURRI

Department of Health and Hospitals Board of Examiners for Speech-Language Pathology and Audiology

Public Hearing—Substantive Change to Notice of Intent
(LAC 46:LXXV.512)

A Notice of Intent concerning the board's rules, standards and procedures was published in the March 20, 2007, edition of the *Louisiana Register* (See LR 33:561-571), to provide chiefly for the temporary registration of emergency providers as mandated by ACT 207 of the 2006 Regular Session of the Louisiana Legislature; a slight increase in fees for persons who hold a credential with this board for those licensees who rent videos to secure permissible continuing education credit hours within the board's rules; and better public protection through the provision of more appropriate supervision, expansion of allowable continuing education opportunities, and better delineation of the disciplinary process. The notice solicited written comments and informed that a public hearing was set for April 25, 2007. No written comments were received and no one appeared at the public hearing to orally comment. Following advice of legal counsel to better assist the board in performing its legislative purpose of safeguarding the public health, safety and welfare; to protect the public from incompetent, unscrupulous, and unauthorized persons; and from unprofessional conduct by speech-language pathologists, audiologists, and speech-language assistants, the board has decided to amend its rules, standards and procedures in §513 of the proposed rules, standards and procedures by providing for the summary suspension of a license under certain circumstances and in accordance with certain procedures. Therefore, the following amendment is hereby recommended to the proposed Rule.

Title 46

Part LXXV Speech Pathology and Audiology

Chapter 5. Procedural Rules

§512. Summary Suspension of License

A. The board may suspend an existing license because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of the licensee. The board may also suspend an existing license if there are allegations of fact that the board believes demonstrates a substantial likelihood that the licensee poses a risk of harm to the public health, safety or welfare.

B. If the board finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

C. Following the proceedings, the notice to summarily suspend an existing license shall be serviced personally upon the respondent or by certified mail or by other reasonable means. The notice shall inform the licensee of the opportunity, including the time and place, to appear before the board to show cause regarding why the license should

not be suspended. The opportunity for the licensee to be heard shall occur from two to 10 days following the summary suspension of the license.

D. The proceedings shall be conducted in accordance with Louisiana's Administrative Procedures Act.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37: 2651-2666.

HISTORICAL NOTE: Promulgated by the Department of Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 33:

In accordance with the provisions of the Administrative Procedure Act, specifically at R.S. 49:968 (H)(2), the board gives notice of a public hearing to receive additional comments or testimony on this substantive amendment to the proposed Rule.

The hearing will be held at 9 a.m. until 10 a.m. on Friday, August 3, 2007, at the office of the board which is located at 18550 Highland Road, Suite B, Baton Rouge, LA 70809. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. All interested persons are invited to submit written comments concerning the proposed substantive change no later than August 2, 2007, at 4:30 p.m. to Richard N. Burt, Administrator, of the Louisiana Board of Examiners for Speech-Language Pathology and Audiology, 18550 Highland Road, Suite B, Baton Rouge, LA 70809, or by hand-delivery to the same address.

Richard N. Burt, J.D.
Administrator

0706#026

POTPOURRI

Department of Health and Hospitals Office of Public Health Maternal and Child Health Section

MCH Block Grant Federal Funding

The Department of Health and Hospitals (DHH) intends to apply for Maternal and Child (MCH) Block Grant Federal Funding for FY 2007-2008 in accordance with Public Law 97-35 and the Omnibus Budget Reconciliation Act of 1981. The Office of Public Health, Maternal and Child Health Section, is responsible for program administration of the grant.

The Block Grant Application describes in detail the goals and planned activities of the State Maternal and Child Health Program for the next year. Program priorities are based on the results of a statewide needs assessment conducted in 2005, which is updated annually based on relevant data collection.

Interested persons may request copies of the application from:

State of Louisiana
DHH—Office of Public Health
Maternal and Child Health Section
P.O. Box 3214
Baton Rouge, LA 70821

Or view a summary of the application at:
<http://www.dhh.louisiana.gov/offices/publications.asp?ID=267&Detail=1065>

Additional information may be gathered by contacting Tracy Hubbard at (225) 342-7805.

Frederick Cerise, M.D., M.P.H.
Secretary

0706#040

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
The Union Sulphur Company	Wildcat	L	Amer Oil & Sul Co	1	20688
Alpha Resources, Inc	Manila Village	L	John Watt	1	122533
Alpha Resources, Inc	Manila Village	L	John Watt	1-D	124192
Alpha Resources, Inc	Manila Village	L	John Watt	2	167195
Alpha Resources, Inc	Manila Village	L	John Watt	3	176224
Alpha Resources, Inc	Manila Village	L	John Watt	3-D	179898
Michael Burton	Monroe	M	Jefferson Estate	1	165737

James H. Welsh
Commissioner

0706#027

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

Underwater Obstructions

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 13 claims in the amount of \$51,294.32 were received for payment during the period May 1, 2007 - May 31, 2007.

There were 11 claims paid and 2 claims denied. Latitude/Longitude Coordinates of reported underwater obstructions are:

2912.765	9027.180	Terrebonne
2925.912	8956.243	Jefferson
2927.373	9003.263	Jefferson
2929.956	8959.383	Jefferson
2936.245	9243.926	Vermilion
2944.461	8949.262	St. Bernard
2945.680	8938.000	St. Bernard
2948.892	8938.705	St. Bernard
2951.377	8940.649	St. Bernard
2951.377	8940.649	St. Bernard
3010.531	8941.410	St. Tammany

A list of claimants and amounts paid can be obtained from Marjorie McClinton, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225)342-0122.

Scott A. Angelle
Secretary

0706#024

POTPOURRI

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

White Lake Wetlands Conservation Area

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission are giving notice that they are seeking to incorporate changes to the Notice of Intent relative to the proposed Rule regarding White Lake Wetlands Conservation Area, LAC 76:III.335, which was originally published in the May 20, 2007 issue of the *Louisiana Register* (pages 943 and 944). Changes to the proposed Rule involve: 1) exemptions from certain costs for universities or agencies working cooperatively with the department; 2) insurance and indemnity; 3) a prohibition against political fundraisers on the property; and 4) a prohibition against Wildlife and Fisheries Commission members and their immediate families participating in consumptive activities. Copies of the proposed changes can be viewed by contacting Mr. Philip Bowman, 225-765-2811. Interested persons may submit their written comments on the proposed changes to Mr. Brandt Savoie, Office of Wildlife, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898 no later than 4:30 p.m., July 5, 2007.

Earl P. King, Jr.
Chairman

0706#053

CUMULATIVE INDEX
(Volume 33, Number 6)

Pages	2007	Issue
1 – 197.....		January
198 - 402.....		February
403 – 621.....		March
622 – 745.....		April
746 – 962.....		May
963 – 1313.....		June
<p>EO—Executive Order PPM—Policy and Procedure Memoranda ER—Emergency Rule R—Rule N—Notice of Intent CR—Committee Report GR—Governor's Report L—Legislation P—Potpourri</p>		

ADMINISTRATIVE CODE UPDATE

Cumulative

January 2006—December 2006, 188
 January 2007—March 2007, 729

AGRICULTURE AND FORESTRY

Agriculture and Environmental Sciences, Office of

Aerial applications of 2, 4-D, 623ER
 Conifer fumigation, 34R
 Malathion, ULV, 751ER
 Pesticide application restrictions, 866N

Agro-Consumer Services

Weights and Measures Division

Chloramphenicol, 34R
 Fluoroquinolones, 37R

Commissioner, Office of the

Fluoroquinolones in seafood, 753ER

Forestry, Office of

Fire danger ratings, 249R
 Timber stumpage values, 191P, 191P

Horticulture Commission

Landscape architect
 Registration exam, 191P, 395P
 Retail floristry, 395P, 679N, 945P
 Quarantine listing, 730P

Seed Commission

Contaminated seed stock and other propagating
 stock, 202ER, 299N, 969ER, 990R
 Germination standards, 540N, 624ER

State Market Commission

Facilities, Acquisition of, 422R

Structural Pest Control Commission

Structural pest control business, 39R
 Termiticides and manufacturers, 945P

CIVIL SERVICE

Civil Service Commission

Advanced degree/reward/recognition payment, 116N
 Reassignment/noncompetitive re-employment, 116N

CULTURE, RECREATION AND TOURISM

Secretary, Office of the

Black Bear Golf Course, 249R

ECONOMIC DEVELOPMENT

Entertainment Industries Development, Office of

Tax credit programs, 405ER, 542N, 681N

Secretary, Office of the

Business Development, Office of

Regional Awards and Matching Grant
 Program, 41R
 Workforce Development and Training
 Program, 44R

EDUCATION

Elementary and Secondary Education, Board of

Bulletin 111
 Accountability, 252R, 423R, 543N, 634R, 687N,
 1158N
 Bulletin 118
 Statewide Assessment, Standards
 and Practice, 255R, 424R, 1160N
 Integrated LEAP, 265R, 300N, 991R
 Bulletin 124
 Supplemental educational services, 1171N
 Bulletin 125
 Standards for educational leaders, 544N
 Bulletin 741
 Adoption awareness, 117N, 817R
 Business education, 276R
 Complaint procedures, 690N
 Criminal background checks, 431R
 Curriculum and instruction, 277R, 429R, 692N,
 1178N
 Distance education, 1180N
 Graduation requirements, 429R, 432R
 Bulletin 741—Nonpublic
 Adoption awareness, 118N, 817R
 Bulletin 746
 Ancillary school service certificates, 694N
 Child Nutrition Program Supervisor
 certification, 280R
 Counselor K-12, 696N

EDUCATION (continued)

Educational leader, 119N, 817R
Foreign language special certificate PK-8, 697N
No child left behind, 1182N
Out of state certification policy, 433R
ROTC instructor, 281R
School library service, 698N
School personnel standards, 549N
Special Education Program
 Deadline extension, 123N, 821R
 Minimum requirements, 432R
 Bulletin 1530
Louisiana's IEP Handbook for Students with
 Disabilities, 434R
Bulletin 1566
 Pupil Progression Policies and Procedures, 1191N
Bulletin 1674, Safety Manual for Career and
 Technical Education Programs, 44R
Bulletin 1794, State Textbook Adoption Policy and
 Procedure Manual, 636R, 1196N
Bulletin 1929
 Louisiana Accounting and Uniform Governmental
 Handbook, 434R

Regents, Board of

Proprietary schools, 867N, 1198N

Student Financial Assistance Commission

Student Financial Assistance, Office of

Bylaws committee membership, 319N, 435R
Scholarship Grants Program
 Application deadline, 83R
 Eligibility, 754ER, 878N
 Higher education, 86R
 Natural disaster, 435R
 Post secondary institutions, 203ER, 550N
Start Savings Program, 443R
TOPS, 439R

Tuition Trust Authority

Bylaws, 444R
Start Savings Program
 Interest rates, 2006, 756ER, 878N

ENVIRONMENTAL QUALITY

Environmental Assessment, Office of

Notification and reportable quantity list, 731P

Air Quality Assessment Division

Emissions inventory data submittals, 946P

Secretary, Office of the

Annual criteria pollutant emissions submittal, 732P
LDEQ construction advisory document, 1304P

Legal Affairs Division

Abrasive blasting emissions, 821R
Air Permits, 946P, 1304P
Alternative Emission Control Plan, 947P
BFI Colonial landfill, 445R
CAIR NO_x and Ozone Season Trading Program, 879N
CAIR SO₂ Trading Program, 124N, 879N
Calcasieu Parish Ozone Maintenance Plan, 614P
Clean air interstate rule, 395P
Corrections to LAC, misc., 131N, 448R

Emissions

Sulfur dioxide, 1010R
Exemptions-pyrophoric catalyst, 446R
Expedited penalty agreement, 4ER, 625ER
Expedited Permit Processing Program, 551N,
 757ER, 1013R
Hazardous waste corrections, 883N
Immovable property, 447R
Incorporation by reference 2006, 320N, 640R,
 1208N
Lead based paint, 128N, 642R
Murphy exploration/production delisting, 554N,
 1015R
National source tracking system, 699N, 1016R
Non-processing transfer station standards, 410ER
Notification requirements and reportable quantity
 list, 886N
Ozone maintenance plan
 New Orleans, 733P
 St. James Parish, 1305P
Permit application review timeline, 700N
Public hearing—Comprehensive Toxic Air
 Pollutant Emission Control Program, 948P
Public records request, 88R
Pyrophoric catalyst exemptions, 446R
Remediation of sites with contaminated media,
 449R
Remediation plans procedure, 1304P
Sewage sludge regulatory management, 204ER,
 758ER, 1211N
SIP general revisions, 732P
Solid waste regulations reorganization, 2316N,
 1017R
State manifest requirements, 88R, 281R
Sygenta crop protection, 132N, 824R
Tax credit recycling, 555N
Toxic air pollutant ambient air standards, 734P
Toxic emissions data inventory submittals, 395P
USTs delivery prohibition, 1265N
Waste tire fee exemption, 89R
Water quality standards triennial, 826R
Wetlands assimilation, 455R

EXECUTIVE ORDERS

KBB 06-51—Bond Allocation—Louisiana Local
 Government Environmental Facilities and
 Community Development Authority, 1EO
KBB 06-52—Inmate Labor for Construction of Animal
 Shelters, 1EO
KBB 06-53—Flags at Half Staff in Tribute to Former
 President Ford, 2EO
KBB 06-54—2006 Carry-Forward Bond Allocation
 Louisiana Housing Finance Authority, 2EO
KBB 07-01—Bond Allocation—Lake Charles
 Housing Authority, 3EO
KBB 07-02—Bond Allocation—Rapides Finance
 Authority, 198EO
KBB 07-03—Bond Allocation—Louisiana Local
 Government Environmental Facilities and
 Community Development Authority, 198EO

EXECUTIVE ORDERS (continued)

- KBB 07-04—Additional 2006 Carry-Forward Bond Allocation—Louisiana Housing Finance Agency, 199EO
- KBB 07-05—Commandeering of Property Use—East of Harvey Canal Floodwall, Phase 2b, Parish of Jefferson, 200EO
- KBB 07-06—Additional 2006 Carry-Forward Bond Allocation—Louisiana Housing Finance Agency, 201EO
- KBB 07-07—Clean-Up by Local Governments in the Parishes of St. Martin, Orleans, and Jefferson, 403EO
- KBB 07-08—Bond Allocation—Louisiana Public Facilities Authority, 403EO
- KBB 07-09—Inmate Labor for Construction of Animal Shelter, 622EO
- KBB 07-10—Small Purchase Procedures, 746EO
- KBB 07-11—Louisiana Offshore Terminal Authority to Administer the Federal Deepwater Port Act for Louisiana, 748EO
- KBB 07-12—Inmate Labor, 749EO
- KBB 07-13—Re-establishment of Louisiana Rebirth Panel, 963EO
- KBB 07-14—Homeland Security and Emergency Preparedness Advisory Council—Recinds KBB 04-36 and KBB 05-01, 964EO

FIREFIGHTERS' PENSION AND RELIEF FUND CITY OF NEW ORLEANS AND VICINITY

Annual leave, 559N

GOVERNOR

Administration, Division of Cosmetology, Board of

Student hours, exams, safety and sanitation, 705N

Group Benefits, Office of

EPO

Lifetime maximum prescription drug benefit, 5ER, 134N, 560N, 644R, 1122R

MCO

Lifetime maximum prescription drug benefit, 5ER, 134N, 560N, 644R, 1122R

PPO

Lifetime maximum prescription drug benefit, 5ER, 134N, 560N, 644R, 1122R

Racing Commission

Carbon dioxide testing, 228ER, 845R

Helmets and safety vests, 227ER, 844R

Racing a horse under investigation, 845R

Substance abuse testing, 845R

Triple play, 227ER, 282R

Worker's comp insurance, 283R

Telecommunications Management

Telecommunications coordinator, 324N, 844R

Architectural Examiners, Board of

Limited liability companies, 322N

Partnerships, 323N

Coastal Protection and Restoration Authority

Public hearing, Comprehensive master plan draft, 396P

Financial Institutions, Office of

Louisiana International Banking, 228ER, 706N

Public hearing, residential and associational groups, 954P

Homeland Security and Emergency Preparedness

Mandatory evacuation, 645R

Lake Charles Harbor and Terminal District, Board of Commissioners of the

Port directive 2007-001—Activity in Calcasieu Ship Canal, 737P

Law Enforcement and Administration of Criminal Justice, Commission on

Peace officer training, 704N

Manufactured Housing Commission

Homes, used, placement, 6ER, 135N, 645R

Oil Spill Coordinator's Office

Louisiana Restoration Planning Program, 192P
Region 2, 192P

Recreational and Used Motor Vehicle Commission

Recreational and used motor vehicles, 889N

State Travel, Office of

General Travel PPM 49, 966PPM

Tax Appeals, Board of

Procedure and practice, 703N

HEALTH AND HOSPITALS

Addictive Disorders, Office of

ADRA documents and payment of costs, 649R

Dentistry, Board of

Licensure and fees, 325N, 846R

Embalmers and Funeral Directors, Board of

Casket identification, 283R

Medical Examiners, Board of

Emergency temporary permits, 91R

Licensure and permits, restricted, 327N

Public hearing, 614P

Nursing, Board of

Clinical practice for licensed APRNs, 896N

Disaster relief permits, 460R

Faculty organization, 571N, 1123R

Pharmacy practice, 1124R

Temporary permits, 460R

Pharmacy, Board of

Prescription monitoring program, 707N

Public hearing, 615P

Physical Therapy Examiners, Board of

Licensure, certification and practice, 711N

Practical Nurse Examiners, Board of

Curriculum requirements, 1267N

Faculty, 1269N

Temporary permits, 92R

Psychologists, Board of Examiners of

Certificate of prescriptive authority, 458R

Fees, 136N, 647R

License, 137N, 648R

Licensure, temporary, 459R

HEALTH AND HOSPITALS (continued)

Public Health, Office of

Diseases, rabies/zoonotic, 139N, 650R
MCH block grant federal funding, 1306P
Retail food establishments, 329N, 848R
School health forms, 955P
Seafood preparation and handling, 331N, 849R
Tuberculosis Control Program, 93R

Secretary, Office of the

Aging and Adult Services, Office of

Home/Community Based Services Waiver
Adult day health care, 417ER, 789ER
Elderly and disabled adults waiver, 243ER,
420ER, 793ER, 794ER
Personal care services, long term
Personal care workers wage pass-through,
244ER, 794ER

Citizens with Developmental Disabilities, Office of

Home/Community Based Services Waivers
Adult day health care, direct service, 240ER
Children's Choice, direct service, 241ER
Displaced recipients, termination of services,
417ER
New opportunities waiver
Direct service, 242ER
Emergency opportunities, 416ER, 981ER
Service cap increase, 901N
Supports waiver, 981ER
Targeted case management, 982ER

Community and Family Support System

Cash subsidy, 572N, 1135R

Health Services Financing, Bureau of

All inclusive care for the elderly, 332N, 850R
CommunityCARE Program, 229ER, 576N, 1139R
Direct service worker registry, 95R
Disability Medicaid Program, 628ER
Disproportionate share hospital
Non-rural/federally mandated hospitals,
412ER, 626ER
Small rural hospitals, 8ER
Early and Periodic Screening, Diagnosis
and Treatment Program
Dental services reimbursement, 230ER, 577N, 1138R
Personal care services workers wage
pass-through, 231ER, 784ER, 1276N
Psychological and behavioral services,
9ER, 141N, 413ER, 651R
Health care service provider fees
Pharmacy services, 100R
Home/Community Based Services Waiver
Adult day health care,
Direct service professionals wage
enhancement, 240ER, 785ER
Children's choice
Direct support professionals wage
enhancement, 785ER
Service cap increase, 786ER

New opportunities waiver
Direct support professionals wage
pass-through, 242ER, 787ER

Supports waiver

Direct support professionals wage
enhancement, 788ER

Hospital(s)

Inpatient

Disproportionate share hospital, 232ER,
970ER

Private Hospitals, Reimbursement, 289R
Psychiatric services reimbursement, 289R

Outpatient

Private hospitals reimbursement, 290R

ICF-MR (Intermediate Care Facility-Mentally Retarded)

Direct service professionals wage
enhancement, 238ER, 781ER, 1277N
Medical supplies reimbursement, 461R

Licensing standards, 284R

Medical Transportation Program

Emergency ambulance services, 289R
Non-emergency ambulance services, 462R

Nursing Facilities

Direct support professionals wage
enhancement, 239ER, 782ER, 1278N

Evacuation and temporary sheltering
costs, 414ER, 976ER

Minimum licensing standards

Emergency preparedness, 977ER
Reimbursement methodology, 718N

Fair rental value, property tax, insurance
payments, 897N

Private room conversions, 899N

Resident personal fund accounts, 719N

Pain management clinics, 142N

Pharmacy Benefits Management Program

Antihemophilia drugs, 100R

Professional Services Program

Physician services reimbursement, 9ER, 289R,
462R

State Children's Health Insurance Program

Prenatal care services coverage, 782ER

Targeted case management

Nurse Family Partnership Program, 239R

Third party liability

Provider billing and trauma recovery, 463R

Social Work Examiners, Board of

Social work, 1270N

Temporary credentialing during emergency, 7ER

Speech and Language and Pathology, Board of Examiners

Board meeting dates, 396P

General provisions, 561N

Public hearing, substantive changes to notice
of intent, 1306P

Veterinary Medicine, Board of

Continuing education, 138N, 648R, 847R

Fee schedule, 193P

INSURANCE

Citizens Property Insurance Corporation

Producer binding requirements, 1279N

Commissioner, Office of the

Hurricane Damage

Residential claims/Rule 22, 10ER, 795ER

Military personnel insurance/Rule 81, 907N

Mortality tables/Regulation 91, 464R

Pharmacy/pharmacist claims payment, 333N

Policy form filing requirements/Regulation 78, 101R

JUSTICE

Attorney General, Office of the Public Protection Division

Database security breach, 466R

LABOR

Worker's Compensation, Office of

Court hearing procedures, 150N, 652R

LEGISLATION

House of Representatives

House Committee on Commerce

State Uniform Construction Code, 394ER, 394CR

Senate

Senate Revenue and Fiscal Affairs Committee

Entertainment Industry Tax Credit Programs,
728CR

NATURAL RESOURCES

Conservation, Office of

E & P Sites, 159N, 660R, 909N

Hazardous liquids pipeline safety, 466R

Natural gas pipeline safety, 473R

Orphaned oilfield sites, 194P, 397P, 616P, 738P,
955P, 1307P

Statewide order 29-B hearings, 159N, 660R

Injection and Mining Division

Statewide order 29-B hearing notice, 194P

Secretary, Office of the

Fisherman's Gear Compensation Fund

Loran coordinates, 397P, 955P, 1307P

Underwater obstructions, 616P, 738P

PUBLIC SAFETY AND CORRECTIONS

Correction Services, Office of

Community resource centers, 164N, 665R

Fees, 166N

Inmate mail/publications, 14ER, 336N, 851R

Judicial/referral residential facilities, 397P, 666R

Prison enterprises, 344N, 855R

Residential referral, 166N

Gaming Control Board

Devices, Electronic, 488R, 856R, 1284N

Liquefied Petroleum Gas Commission

General requirements, 579N, 1139R

Private Investigator Examiners, Board of

Fees, 336N, 665R

State Fire Marshal, Office of

Boiler construction, maintenance, 346N, 955P

Code standards, 174N, 671R

Fire protection licensing, 918N

State Police, Office of

Hurricane reporting requirements, 172N, 859R

State Uniform Construction Code Council

Classification and certification, 799ER, 937N

Commercial plan review, 800ER, 936N

Third party providers, 586N, 801ER

Uniform Construction Code, 23ER, 245ER, 290R,
739P, 983ER, 1285N

REVENUE

Alcohol and Tobacco Control, Office of

Class C-Package store, 938N

Wine producer permits, 940N

Policy Services Division

Corporation income tax, 295R

Exemption, 365N, 860R

Income withholding tax, 587N

Interest abatement and compromise, 111R

Issuance and cancellation of a lien/fees,
245ER, 366N, 860R

Natural gas severance tax rate, 739P

Oil spill contingency fee, 739P

Partnerships composite returns and payments,
367N, 861R

Severance taxes on oil and gas, 721N, 956P

Tax

Absorption penalty, 1286N

Returns/payment, 1286N

Withholding tax at the source, 740P

Tax Commission

Ad valorem taxation, 489R

Timber stumpage values, 191P, 191P

SOCIAL SERVICES

Community Services, Office of

Day care services, 246ER, 725N

Hurricane relief fund allocation, 629ER

Louisiana's Emergency Shelter Grants Program 2007
Anticipated funds availability, 398P

Family Support, Office of

Child Care Assistance Program (CCAP), 27ER, 506R

Child care quality rating system, 801ER, 806ER

Child support mandatory fee collection, 508R

Earned income tax credit/tax assistance program
for filers without children, 176N, 246ER, 674R

Electronic benefits transfer, 1287N

SOCIAL SERVICES (continued)

FITAP/STEP eligibility requirements, 247ER, 811ER, 941N
 Support Enforcement Services Program
 Child support, 30ER
 Passport denial, 178N, 675R
 TANF initiatives,
 Child support orders adjustment, 1290N
 Earned income credit program, 180N, 248ER, 675R
 Homeless initiative, 179N, 420ER, 674R
 Temporary Emergency Disaster Assistance Program, 811ER, 812ER

Military Family Assistance Board

Military family assistance, 984ER

Rehabilitation Services

Personal Assistance Services Program, 590N, 1145R

Secretary, Office of

Community and Family Support System
 Cash Subsidy, 572N, 1135R

STATE DEPARTMENT**Elections Divison**

Election expense reimbursement, 1291N
 Election night transmission of results, 1292N
 Political parties recognition, 1298N
 Registrar of voters, 1300N
 Voting system drayage and storage, 1298N

TAX ADMINISTRATORS**Louisiana Association of Tax Administrators**

Local sales tax reporting date, 509R
 Storage of property tax, 510R

TRANSPORTATION AND DEVELOPMENT**Highways/Engineering, Office of**

Outdoor advertising, control of, 530R
 Traffic impact policy, 533R

Intermodal Transportation Division

Intermodal transportation, 510R

Public Works, Office of

Hurricane flood control protection program, 535R

Real Estate, Office of

Appraisal Handbook for Fee Appraisers, 596N

Sabine River Compact Administration

Meeting notice, 956P

Weights and Standards, Office of

Violation ticket review committee, 181N, 863R

TREASURY**Louisiana State Employees' Retirement System**

Domestic relations order, 608N, 1150R
 Newly elected trustees, 609N, 1151R
 Retiree benefits voluntary deductions, 30ER, 183N, 676R
 Sunset, 182N, 676R

Teachers' Retirement System

Monthly salaries and contributions report, 610N, 1151R
 Renunciation of benefit, 112R
 Vesting prior state employment, 113R

WILDLIFE AND FISHERIES**Fisheries, Office of**

Aquatic plants, 536R

Wildlife and Fisheries Commission

Abandoned crab traps, removal, 113R
 Alligators, 677R, 677R
 Bird dog training, 617P, 1151R
 Dove, 813ER
 Exotics possession, 385N, 1152R
 Flotation devices, 537R
 Fur trapping, 942N
 General and wildlife management area hunting, 370N
 Grouper, 988ER
 Hunter education certification, 611N
 King mackerel, 31ER
 Mourning dove, 726N
 No wake zone signage, 114R
 Nutria, 297R
 Oysters, 248ER, 297R, 612N, 632ER, 813ER
 Paddlefish, 184N, 865R
 Permit, special bait dealer, 185N, 864R
 Red snapper, 632ER
 Reef fish, 32ER, 32ER, 388N, 814ER, 1156R
 Resident hunting, 391N
 Shrimp, 31ER, 815ER, 815ER
 Squirrel, 115R
 Tilefish, 816ER
 White Lake Wetlands, 538R, 943N, 1307P