

I. EXECUTIVE ORDERS

MJF 98-31—Louisiana Historical Records Advisory Board 1220
 MJF 98-32—Chief Information Officer 1221

II. EMERGENCY RULES

Agriculture and Forestry

Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides—Pesticide
 Restrictions (LAC 7:XXIII.143) 1223
 Pesticide Restrictions (LAC 7:XXIII.143) 1224

Economic Development

Office of the Secretary—Economic Development Award Program (EDAP) (LAC 13:I.Chapter 60) 1224
 Regional Initiatives Program (LAC 13:I.Chapter 70) 1227
 Workforce Development and Training Program (LAC 13:I.Chapter 50) 1229
 Racing Commission—Apprentice Contract (LAC 35:XLI.705) 1232
 Displaying Daily Double Rule (LAC 35:XIII.10521) 1233
 Field Less Than Six (LAC 35:XIII.11115) 1233

Education

Student Financial Assistance Commission, Office of Student Financial Assistance—Tuition Opportunity
 Program for Students (TOPS) (LAC 28:IV.Chapters 1-21) 1233

Governor's Office

Division of Administration, Board of Trustees of the State Employees Group Benefits Program—Diabetes
 Self-Management Training 1257

Health and Hospitals

Office of the Secretary, Bureau of Health Services Financing—Pharmacy Program—Maximum Allowable
 Overhead Cost 1258

Wildlife and Fisheries

Wildlife and Fisheries Commission—Alligator Season—1998 1258
 Commercial Fisherman's Assistance Program (LAC 76:XVII.101) 1259
 Hunting Seasons—Farm-Raised White-Tailed Deer and Exotics
 (LAC 76:XIX.109) 1260
 Shrimp Season Closure—Zone 2 1261
 Shrimp Season Closure—Zone 3 1261

III. RULES

Agriculture and Forestry

Office of Agriculture and Environmental Sciences, Structural Pest Control Commission—Donation of Structural
 Pest Control Work (LAC 7:XXXV.163) 1262

Education

Student Financial Assistance Commission, Office of Student Financial Assistance—Commission Bylaws
 (LAC 28:V.Chapter 1) 1262
 Tuition Trust Authority, Office of Student Financial Assistance—Student Tuition and Revenue Trust
 (START Saving) Program (LAC 28:VI.Chapters 1 and 3) 1267

Environmental Quality

Office of Air Quality and Radiation Protection, Air Quality Division—Comprehensive Toxic Air Pollutant
 Emission Control Program (LAC 33:III.5101, 5103, 5107, 5112) (AQ169) 1276
 Emissions (LAC 33:III.5116, 5122, and 5311) (AQ174*) 1277
 Federal Transportation Conformity (LAC 33:III.Chapter 14) (AQ172*) 1279
 Hazardous Air Pollutants for Source Categories (LAC 33:III.5122) (AQ160*) 1283
 New Stationary Sources (LAC 33:III.Chapters 5, 15, 21, 23, 25, and 30) (AQ171*) 1284

This public document was published at a total cost of \$6,900.00. Nine hundred, fifty copies of this public document were published in this monthly printing at a cost of \$4,900.00. The total cost of all printings of this document including reprints is \$6,900.00. This document was published by Moran Printing, Inc., 5425 Florida Boulevard, Baton Rouge, LA 70806, as 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 audio cassette 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.

Office of the Secretary—Reportable Quantity List (LAC 33:I.3931) (OS023A*)	1288
Office of Waste Services—RCRA Updates (LAC 33:V.3105) (HW061*)	1289
Governor's Office	
Office of Rural Development—Projects, Funding and Application Process (LAC 4:VII.1901 and 1903)	1290
Health and Hospitals	
Board of Dentistry—Comprehensive Rule Revisions (LAC 46:XXXIII.710 and 714)	1292
Board of Nursing—Comprehensive Rule Revisions (LAC 46:XLVII.Chapters 31-43)	1293
Board of Veterinary Medicine—Preceptorship Program (LAC 46:LXXXV.1103)	1293
Licensed Professional Counselors Board of Examiners—Licensure (LAC 46:LX.703, 705, and 801)	1293
Louisiana State University Medical Center, Office of the Chancellor—Tumor Registry (LAC 48:V.8501-8513)	1295
Office of the Secretary, Bureau of Health Services Financing—Medicaid—Cochlear Device Implantation	1300
Mental Health Rehabilitation Program—Enrollment and Certification Criteria	1301
Qualified Individuals Medicare Part B Buy-In	1304
Medical Disclosure Panel—Informed Consent—Oral Surgery; Gastric Lap Band for Obesity; Gastric Bypass with or without Liver Biopsy for Obesity; Thoracentesis; Cancer Chemotherapy (LAC 48:I.Chapter 23)	1304
Natural Resources	
Office of Conservation—Drug Testing (LAC 43:XIII.3103, 3107, and 3109)	1306
Natural Gas Pipeline Safety (LAC 43:XIII.Chapters 1-29)	1306
Pipeline Division—Hazardous Liquid Safety Standards (LAC 33:V.30107, 30129, 30259, 30269, and 30300)	1313
Public Safety and Corrections	
Gaming Control Board—Riverboat Gaming—Internal Controls; Tips or Gratuities (LAC 42:XIII.2721)	1315
Public Safety Services, Office of Motor Vehicles—Driver's License—Reciprocity Agreements with Foreign Countries (LAC 55:III.171-181)	1316
Revenue and Taxation	
Office of Alcohol and Tobacco Control—Expiration Dates on Permits (LAC 55:VII.321)	1318
Tobacco Permits (LAC 55:VII.3101-3113)	1319
Social Services	
Office of Family Support—Electronic Benefits Transfer (EBT) (LAC 67:III.402, 407)	1322
Family Independence Temporary Assistance Program (FITAP)—Drug Testing Program (LAC 67:III.1301, 1302, 1303)	1323
Transportation and Development	
Office of the General Counsel—Cash Management Plan (LAC 70:I.Chapter 11)	1324
Wildlife and Fisheries	
Wildlife and Fisheries Commission—Resident Game Hunting Season—1998-99 (LAC 76:XIX.101 and 103)	1324
White-Tailed Deer Importation (LAC 76:V.117)	1325
IV. NOTICES OF INTENT	
Agriculture and Forestry	
Forestry Commission—Timber Stumpage (LAC 7:XXXIX.101-111)	1327
Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides—Pesticide Restrictions (LAC 7:XXIII.143)	1328
Economic Development	
Office of the Secretary—Economic Development Award Program (EDAP) (LAC 13:I.Chapter 60)	1329
Regional Initiatives Program (LAC 13:I.Chapter 70)	1329
Workforce Development and Training Program (LAC 13:I.Chapter 50)	1330
Racing Commission—Apprentice's Contract (LAC 35:XLI.705)	1331
Displaying Daily Double Rule (LAC 35:XIII.10521)	1331
Field Less Than Six (LAC 35:XIII.11115)	1331
Education	
Board of Elementary and Secondary Education—Bulletin 746—Certification in Dance (LAC 28:I.903)	1332
Bulletin 746—Elementary Teacher Certification Requirements (LAC 28:I.903)	1333
Bulletin 1443—Proprietary School Commission—Student Protection Fund	1334
Bulletin 1566—Pupil Progression and Remedial Education—1998 (LAC 28:I.907)	1335
Bulletin 1943—Teacher Assistance and Assessment (LAC 28:I.917)	1342
Bulletin 1977—Business Education (LAC 28:I.930)	1343
Employing Noncertified Personnel (LAC 28:I.903)	1344
Louisiana Components of Effective Teaching (LAC 28:I.917)	1344
Student Financial Assistance Commission, Office of Student Financial Assistance—Tuition Opportunity Program for Students (TOPS) (LAC 28:IV.Chapters 1-21)	1345
Environmental Quality	
Office of Waste Services, Hazardous Waste Division—RCRA 7 and Land Disposal Restrictions (LAC 33:V.1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 22, 24, 25, 29, 30, 31, 32, 35, 41, 43, 49, and 53) (HW064*)	1346
Governor's Office	
Office of Elderly Affairs—Title III-C Nutrition Services (LAC 4:VII.1223)	1419

Health and Hospitals

Board of Veterinary Medicine—Mobile Clinic (LAC 46:LXXXV.711) 1421
Office of Public Health—State Health Care Data Clearinghouse (LAC 48:V.Chapter 151) 1422
Office of the Secretary, Bureau of Health Services Financing—Health Care Facilities Sanctions 1435
Medicaid—Children Supplemental Security Income (SSI) 1438
Medicaid—Hemophilia Settlement 1439
Medicaid—Louisiana Children’s Health Insurance Program (LaChip) 1440
Medicaid—Low Income Families 1441
Medicaid—Twelve-Month Continuous Eligibility 1442
Pharmacy Program—Erectile Dysfunction Drugs 1442

Public Safety and Corrections

Office of State Police—Motor Carrier Safety and Hazardous Materials (LAC 33:V.10303) 1443

Revenue and Taxation

Office of Alcohol and Tobacco Control—Responsible Vendor Program (LAC 55:VII.501-509) 1444
Tax Commission—Timber Stumpage (LAC 7:XXXIX.101-111) 1327

Social Services

Office of Family Support—Individual and Family Grant (IFG) Program (LAC 67:III.4704) 1449
Support Enforcement Services (LAC 67:III.2525) 1450

Treasury

Bond Commission—Expedited Review Procedure for Movables (LAC 71:III) 1450
Deferred Compensation Commission—Comprehensive Rule Revisions (LAC 71:VII.Chapters 1-17) 1452

Wildlife and Fisheries

Wildlife and Fisheries Commission—Game Fish Fingerling Aquaculture (LAC 76:VII.159) 1462
Goose Creeping (LAC 76:V.307) 1463
Nonresident Charter Trip Fishing License (LAC 76:VII.411) 1463

V. ADMINISTRATIVE CODE UPDATE

Cumulative—January 1998 through June 1998 1465

VI. POTPOURRI

Civil Service

Board of Ethics—Drug Testing of Elected Officials—Public Hearing 1467

Elections and Registration

Commissioner of Elections—Elections and Registration Information Network—Registrar of Voters User
Manual (LAC 31:II.301) 1467
Procurement of Voting Machine Drayage (LAC 31:III.Chapter 7; Repeal §§737 and 739) 1467

Environmental Quality

Office of Air Quality and Radiation Protection, Radiation Protection Division—Hospital/Medical/Infectious
Waste Incinerators [Section 111(d)] Request for Public Comment 1467
MSW Landfill [Section 111(d)] Request for Public Comment 1468

Health and Hospitals

Board of Veterinary Medicine—1998 Fall/Winter Examination Dates 1468
Office of the Secretary, Bureau of Health Services Financing—Nursing Facility Reimbursement 1469
Private Intermediate Care Facilities-MR 1469
Private Intermediate Care Facilities-MR (Retroactive) 1469

Natural Resources

Office of Conservation—Orphaned Oilfield Sites 1470
Office of the Secretary—Public Hearing—Oyster Lease Relocation Program 1471

Public Safety and Corrections

Board of Parole—Sexually Violent and Child Predator—Public Hearings 1472

Executive Orders

EXECUTIVE ORDER 98-31

Louisiana Historical Records Advisory Board

WHEREAS, the evaluation and re-evaluation for historical purposes of the experiences of our nation, states, communities, and societal groups are dependent on proper documentation;

WHEREAS, the National Historical Publications and Records Commission (hereafter "National Commission") was created pursuant to 44 U.S.C. Section 2501, et seq., to cooperate with, assist, and encourage federal, state, and local agencies and non-governmental institutions, societies, and individuals in collecting, preserving, editing, and publishing documents, including the papers of outstanding citizens of the United States, that may be important for an in-depth understanding and appreciation of the history of the United States;

WHEREAS, through a program established under 44 U.S.C. Section 2504, based on the recommendation of the National Commission, state and local agencies, nonprofit organizations, institutions, and individuals may receive grants from the Archivist of the United States for the collection, description, preservation, compilation, publication, and dissemination of records, photographs, and other materials significant to the history of the United States;

WHEREAS, as a prerequisite to a state's participation in the National Commission's grant program, the regulations of the entity which governs the National Commission, the National Archives and Records Administration, 44 U.S.C. Section 2102, et seq., require the state to establish a historical records advisory board, 36 C.F.R. Part 1206; and

WHEREAS, the interests of the citizens of the state of Louisiana would be best served by the creation of a historical records advisory board that is charged with coordinating and facilitating the efforts of historical records repositories and other informational agencies within the state in the collection, preservation, and publication of the important historical documents of this state;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., 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 Historical Records Advisory Board (hereafter "Board") is established within the division of archives, records management, and history, Department of State (hereafter "State Archives").

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

A. sponsoring and publishing surveys of the conditions and needs of historical records in this state;

B. soliciting and/or developing proposals for historical records projects to be undertaken by institutions in this state or

by the Board with grants from the National Historical Publications and Records Commission (hereafter "National Commission");

C. reviewing historical records projects proposed by institutions in this state and making recommendations thereon to the National Commission;

D. developing, revising, and submitting the state's priorities for historical records projects to the National Commission in accordance with the guidelines developed by the National Commission;

E. promoting an understanding of the role and the value of historical records and record-keeping;

F. acting in an advisory capacity to the State Archives and other statewide archival or records agencies; and

G. reviewing, through reports and otherwise, the operation and progress of projects throughout the state which have been financed, in whole or in part, by grants from the National Commission.

SECTION 3: The Board shall consist of seventeen (17) members who shall be appointed by, and serve at the pleasure of, the governor. As much as practicable, Board members shall be broadly representative of public and private archives, records offices, and research institutions and organizations in the state. The membership of the Board shall be selected as follows:

A. the director of State Archives;

B. nine (9) members outstanding in one or more of the following fields: administration of government records, historical records, and/or archives; and

C. seven (7) members at large.

SECTION 4: The director of the State Archives shall chair the Board and serve as the state historical records coordinator (hereafter "coordinator"). On the recommendation of the coordinator, a deputy state historical records coordinator (hereafter "deputy coordinator") shall be appointed by, and serve at the pleasure of, the governor. When practicable, the deputy coordinator shall be selected from the membership of the Board or the staff of the coordinator's agency. The membership of the Board shall elect all other officers.

SECTION 5: The duties of the coordinator shall include, but are not limited to, the following:

A. preparing a comprehensive written report on the Board's activities to be submitted annually to the governor and the National Commission detailing the Board's activities during the previous year, assessing the Board's ongoing planning objectives, and providing all additional data and/or information necessary to comply with the National Commission's Guidelines for State Historical Records Coordinators and State Historical Records Advisory Boards (hereafter "the National Commission's guidelines");

B. coordinating the Board's efforts to assess and monitor the conditions and needs of historical records in the state;

C. serving as project director or providing administrative oversight for any grant projects carried out by the Board;

D. assisting the Board in developing and sustaining statewide strategic planning, including the development and maintenance of a statement of priorities for historical records programs in the state, identifying particular priorities for board action and priorities for grant funding;

E. soliciting and receiving applications for National Commission-funded grant projects, managing the grant review process at the state level, and forwarding rating sheets and summary recommendations to the National Commission;

F. providing information about National Commission grants and Board activities and priorities to institutions and individuals within the state;

G. serving as a liaison between the Board and the National Commission and as the initial point of contact for state and local officials and agencies on matters relating to records grants;

H. reviewing, upon request by the National Commission and when practicable, grant proposals from other state historical records boards and applicants from outside of the state;

I. fostering cooperation and communication among the historical records repositories, other information agencies within the state, and the National Commission; and

J. participating with other state historical records coordinators in regional and national meetings to discuss the National Commission's work and the work of the state boards, and to seek solutions to common problems.

SECTION 6: The duties of the deputy coordinator shall include, but are not limited to, assisting the coordinator in executing the coordinator's duties as defined in Section 5 of this Order, and serving as an acting coordinator at the coordinator's discretion or upon the coordinator's resignation or inability to serve.

SECTION 7: The Board shall comply with the National Commission's guidelines.

SECTION 8: The Board shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 9: Support staff for the Board and facilities for its meetings shall be provided by the State Archives.

SECTION 10: The members of the Board shall not receive compensation or a per diem. Nonetheless, contingent upon the availability of funds, members who are not an employee of the state of Louisiana or one of its political subdivisions, or an elected official, may receive reimbursement from the Office of the Governor for actual travel expenses incurred, in accordance with state guidelines and procedures, with the prior written approval of the commissioner of administration and the Office of the Governor.

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

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

IN WITNESS WHEREOF, I have set my hand officially and

caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 12th day of June, 1998.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9807#028

EXECUTIVE ORDER MJF 98-32

Chief Information Officer

WHEREAS, each year the state of Louisiana spends several hundred million dollars on information technology (hereafter "IT");

WHEREAS, due to the sizable amount of the state's annual IT expenditures, the interests of the citizens of the state of Louisiana would be best served by the development and formulation of a master IT plan which correlates state IT expenditures to the priorities set forth in the state's strategic business plan for the efficient and effective administration of state government; and

WHEREAS, the state of Louisiana's efforts to develop, formulate, and implement a master IT plan will be complimented and enhanced by the reorganization and consolidation of the state's related IT operations and programs under the supervision and direction of a chief information officer;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., 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 office of chief information officer (hereafter "CIO") is created and established within the Executive Department, Office of the Governor, Division of Administration. The CIO shall provide strategic direction and coordination of information technology (hereafter "IT") operations, programs, activities, and services within the fifteen (15) executive departments operating under the authority of the governor and provide such services, upon request, for the five (5) executive departments operating under the authority of other statewide elected officials.

SECTION 2: The CIO shall be appointed by, and serve at the pleasure of, the governor. Recommendations of persons qualified for appointment to the office shall be submitted to the governor by the commissioner of administration.

SECTION 3: The CIO shall manage and direct the Department of Information Technology established within the Executive Department, Office of the Governor, Division of Administration. The CIO shall also perform all duties and functions that the commissioner of administration deems necessary for the proper, efficient, and economical administration of the IT systems including, but not limited to, the following:

A. Overseeing the implementation of a master IT plan;
B. Establishing IT standards and guidelines suitable for statewide application for hardware, software, services, contractual arrangements, consolidation of systems, consolidation of management of systems, etc.;

C. Reviewing, coordinating, standardizing, and approving IT strategic business technology planning, IT procurement, IT budgeting, and IT personnel;

D. Implementing strategic IT planning, including the review and approval of the planning, design, acquisition, and operation of the IT systems;

E. Assessing the performance of IT systems and technology operations;

F. Overseeing and/or coordinating the centralization of the technology systems and data processing systems, including consolidation and outsourcing; and

G. Overseeing telecommunication (voice data, video, etc.) systems.

SECTION 4: The salary of the CIO shall be determined by the commissioner of administration. Support staff, office facilities, and operating expenses shall be provided by the Division of Administration.

SECTION 5: No provision in this Order shall be interpreted or construed so as to create any right of action,

cause of action, or substantive, procedural, or equitable right enforceable by, or in favor of, any person or entity against the state of Louisiana or any department, commission, board, agency, political subdivision, or officer or employee thereof.

SECTION 6: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the implementation of the provisions of this Order.

SECTION 7: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 9th day of July, 1998.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9807#096

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Advisory Commission on Pesticides

Pesticide Restrictions (LAC 7:XXIII.143)

In accordance with the Administrative Procedure Act, R.S. 49:953(B) and R.S. 3:3203(A), the commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in amending the following rules for the implementation of regulations governing the use of the pesticide, azinphos-methyl.

Azinphos-methyl is an essential pesticide in the control of sugarcane pests. Without its use a substantial portion of the sugarcane crop in Louisiana could be damaged by pests. Because of its effectiveness as a pesticide azinphos-methyl poses a substantial threat to the environment if it is misapplied. It was the cause of substantial fish kills in 1991. Because of its substantial threat to the environment the department has severely limited the use of azinphos-methyl, even though its label allows a wider use. The application of azinphos-methyl in accordance with its label, but inconsistent with the department's rules and regulation and the misuse of this pesticide poses an imminent peril to the public health, safety and welfare and to the environment, especially if it gets into the waterways of this state.

The department has, therefore, determined that these emergency rules are necessary in order to implement a monitoring program and registration and permitting requirements during the current crop year. Information will be gathered to determine whether the effectiveness of this chemical outweighs any potential risk to the public or the environment. The rule becomes effective upon signature and will remain in effect 120 days.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 1. Advisory Commission on Pesticides

§143. Restrictions on Application of Certain Pesticides

A. - M.2. ...

N. Reserved for Restriction on Application of Certain Pesticides

O. Application of Azinphos-Methyl

1. Registration Requirements

a. The commissioner hereby declares that prior to making any aerial application of azinphos-methyl to sugarcane, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs (DPEP) in writing.

b. The commissioner hereby declares that prior to selling azinphos-methyl to be applied on sugarcane, the dealer

a. Agricultural consultants registered to recommend azinphos-methyl on sugarcane shall report daily to the DPEP,

must first register such intent by notifying the DPEP in writing.

c. The commissioner hereby declares that prior to making recommendation for application of azinphos-methyl to sugarcane, the agricultural consultant must first register such intent by notifying the DPEP in writing.

2. Grower Liability. Growers of sugarcane shall not force or coerce applicators to apply azinphos-methyl to their crops when the applicators, conforming to the Louisiana Pesticide Laws and Rules and Regulations or to the pesticide label, deem it unsafe to make such applications. Growers found to be in violation of this section shall forfeit their right to use azinphos-methyl on their crops, subject to appeal to the Advisory Commission on Pesticides.

3. Azinphos-methyl Application Restriction

a. Application of azinphos-methyl on sugarcane is limited to one application per season.

b. Do not apply by ground within 25 feet, or by air within 150 feet of lakes; reservoirs; rivers; permanent streams, marshes or natural ponds; estuaries and commercial fish farm ponds.

4. Procedures for Permitting Applications of Azinphos-methyl

a. Prior to any application or recommendation for application of azinphos-methyl, approval shall be obtained in writing from the Louisiana Department of Agriculture and Forestry (LDAF). Such approval is good for five days from the date issued. Approval may be obtained by certified agricultural consultants from the DPEP. Where farmers do not use agricultural consultants, approval must be obtained by the private applicator or aerial applicators employed by such farmers from DPEP.

b. The determination as to whether a permit for application is to be given shall be based on criteria including but not limited to:

i. weather patterns and predictions;

ii. soil moisture;

iii. propensity for run-off;

iv. drainage patterns;

v. quantity of acreage to be treated;

vi. extent and presence of vegetation in the buffer zone between application site and water body;

vii. water monitoring results;

viii. targeted pest must exceed the following prescribed thresholds;

(a). Yellow sugarcane aphid, 20-25 live aphids per leaf or sugarcane borer - a three-fold threshold (15 percent) (i.e., one or more live borers in 15 different stalks per 100 stalks);

ix. azinphos-methyl total acreage target shall not exceed 80,000 acres; and

x. any other relevant data.

5. Monitoring of Azinphos-methyl

on forms prescribed by the commissioner, all recommendations for applications of azinphos-methyl to

sugarcane.

b. Certified applicators registered to apply azinphos-methyl on sugarcane shall maintain a daily record of azinphos-methyl applications and provide a summary to the DPEP within 60 days of the end of the application season.

6. Determination of Appropriate Action

a. Upon determination by the commissioner that a threat or reasonable expectation of a threat to human health or to the environment exists, he may consider:

- i. stop orders for use, sales, or application;
- ii. label changes;
- iii. remedial or protective orders;
- iv. any other relevant remedies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:791 (September 1993), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Services, Advisory Commission on Pesticides, LR 21:668 (July 1995), LR 24:

Bob Odom
Commissioner

9807#008

DECLARATION OF EMERGENCY

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Advisory Commission on Pesticides**

Pesticide Restrictions (LAC 7:XXIII.143)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and R.S. 3:3203(A), the commissioner of Agriculture and Forestry is amending the following rules and regulations for the implementation of regulations governing the use of pesticides in Ward 3 of Evangeline Parish.

The amendment of these regulations is necessary in order that the department may immediately prohibit the current application of certain pesticides which is causing substantial economic and environmental injury.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to prevent the aforesaid substantial economic and environmental adverse injury.

The effective date of these rules and regulations is June 19, 1998, and shall remain in effect 120 days or until these rules are adopted through the normal promulgation process.

**Title 7
AGRICULTURE AND ANIMALS**

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

§143. Restrictions on Application of Certain Pesticides

A. - B.17. ...

C. The pesticides listed in §143.B shall not be applied by commercial applicators between March 15 and September 15 in the following parishes:

- | | |
|----------------------------------|-------------------------------|
| 1. Avoyelles | 14. Madison |
| 2. Bossier | 15. Morehouse |
| 3. Caddo | 16. Natchitoches |
| 4. Caldwell | 17. Ouachita |
| 5. Catahoula | 18. Pointe Coupee, Ward 2 |
| 6. Claiborne, Ward 4 | 19. Rapides |
| 7. Concordia | 20. Red River |
| 8. DeSoto, Ward 7 | 21. Richland |
| 9. East Carroll | 22. St. Landry, Wards 4 and 5 |
| 10. Evangeline, Wards 1, 3 and 5 | 23. Tensas |
| 11. Franklin | 24. Union |
| 12. Grant | 25. West Carroll |
| 13. LaSalle | 26. Winn, Ward 7 |

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:791 (September 1993), LR 21:668 (July 1993), LR 21:668 (July 1995), LR 24:

Bob Odom
Commissioner

9807#007

DECLARATION OF EMERGENCY

**Department of Economic Development
Office of the Secretary**

**Economic Development Award Program (EDAP)
(LAC 13:I.Chapter 60)**

The Department of Economic Development, Office of the Secretary, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to promulgate emergency rules of the Louisiana Economic Development

Award Program (EDAP) effective immediately. These rules will prescribe in accordance with LAC 13:1. Chapter 60. These emergency rules shall be effective July 5, 1998 and shall remain in effect for a period of 120 days or until a final rule is promulgated, whichever occurs first.

The Department of Economic Development is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), in order to publish these rules because of a recognized immediate need to assist businesses with infrastructure improvements necessary for economic growth in Louisiana.

The emergency action is deemed necessary to prevent delays in the awarding of grants for economic development-related infrastructure improvements under the provisions of the Economic Development Award Program, inasmuch as such delays could result in the loss of industry and jobs to other states. Such disruption would likely result in diminished job creation and increased risk of higher unemployment.

The proposed emergency rules are intended to mitigate the disruptions described above.

Title 13

ECONOMIC DEVELOPMENT

Part I. Commerce and Industry

Subpart 3. Financial Incentives

Chapter 60. Economic Development Award Program (EDAP)

§6001. Purpose

The purpose of the program is to finance publicly owned infrastructure for industrial or business development projects that promote economic development and that require state assistance for basic infrastructure development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December, 1997), LR 24:

§6003. Definitions

Applicant—the sponsoring entity requesting financial assistance from DED under this program.

Award—funding approved under this program for eligible applicants.

Awardee—an applicant (and/or company(ies)) receiving an award under this program.

Basic Infrastructure—refers to the construction, improvement or expansion of roadways, parking facilities, equipment, bridges, railroad spurs, water works, sewerage, buildings, ports, waterways and publicly owned or regulated utilities.

Company—the business enterprise for which the project is being undertaken.

DED—Louisiana Department of Economic Development.

Program—the Economic Development Award Program.

Project—an expansion, improvement and/or provision of basic infrastructure that promotes economic development, for which DED assistance is requested under this program as an incentive to influence a company's decision to locate in Louisiana, maintain or expand its Louisiana operations, or increase its capital investment in Louisiana.

Secretary—the secretary of the Department of Economic Development.

Sponsoring Entity—the public or quasi-public entity

responsible for performing and/or monitoring implementation of the project and monitoring the company's compliance with the terms and conditions of the award agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 24:

§6005. General Principles

The following principles will direct the administration of the Economic Development Award Program.

1. Awards are not to be construed as an entitlement for companies locating or located in Louisiana.

2. An award must reasonably be expected to be a significant factor in a company's location, investment and/or expansion decisions.

3. Awards must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities.

4. The retention and strengthening of existing businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state.

5. The anticipated economic benefits to the state will be considered in making the award.

6. Appropriate cost sharing among project beneficiaries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December, 1997), amended LR 24:

§6007. Eligibility

A. An eligible applicant for the Grant Award must be one of the following:

1. a public or quasi-public state entity; or
2. a political subdivision of the state.

B. A company shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations; including state or federal taxes, or bankruptcy proceeding, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December, 1997), LR 24:

§6009. Criteria

A. Preference will be given to projects for industries identified by the state as target industries, and to projects located in areas of the state with high unemployment levels.

B. Preference will be given to projects intended to expand, improve or provide basic infrastructure supporting mixed use by the company and the surrounding community.

C. Companies must be in full compliance with all state and federal laws.

D. No assistance may be provided for Louisiana companies relocating their operations to another labor market area (as defined by the US Census Bureau) within Louisiana, except when company gives sufficient evidence that it is otherwise likely to relocate out of Louisiana.

E. The minimum award request size shall be \$25,000.

F. Projects must create or retain at least 10 permanent jobs in Louisiana.

G. Preference given for wages substantially above the prevailing regional wage.

H. If a company does not begin construction of the project within 365 calendar days after application approval, the secretary, at his discretion, may cancel funding for the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December, 1997), amended LR 24:

§6011. Application Procedure

The sponsoring entity must submit an application on a form provided by DED which shall contain, but not be limited to, the following:

1. an overview of the company, its history, and the business climate in which it operates;

2. a description of the project along with the factors creating the need, including construction, operation and maintenance plans, and a timetable for the project's completion;

3. evidence of the number, types and compensation levels of jobs to be created or retained by the project;

4. any additional information the Secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December, 1997), amended LR 24:

§6013. Submission and Review Procedure

A. Applicants must submit their completed application to DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant, other divisions of the Department of Economic Development, and other state agencies as needed in order to:

1. evaluate the strategic importance of the project to the economic well-being of the state and local communities;

2. validate the information presented;

3. determine the overall feasibility of the company's plan.

B. An economic cost-benefit analysis of the project, including an analysis of the net economic and fiscal benefits to the state and local communities, will be prepared by DED.

C. Upon determination that an application meets the criteria for this program, DED staff will then make a recommendation to the secretary of the Department of Economic Development.

1. The application will then be reviewed and approved by the following entities in the following order:

a. the secretary of the Department of Economic Development;

b. the governor; and

c. the Joint Legislative Committee on the Budget.

2. The secretary can invoke emergency procedures and approve an application under the following conditions. The company documents in writing to the secretary of Economic Development with copies to the governor and chairman of the Joint Legislative Committee on the Budget that a serious time constraint exists and that a new plant, expansion or closure decision is to be made in fewer than 21 days or more than 31

days before the next scheduled meeting of the Joint Legislative Committee on the Budget.

D. The final 15 percent of the grant amount will not be paid until DED staff or its designee inspects the project to assure that all work in the EDAP contract has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December, 1997), amended LR 24:

§6015. General Award Provisions

A. Award Agreement. A contract will be executed between DED, the sponsoring entity and the company. The agreement will specify the performance objectives expected of the company(ies) and the sponsoring entity and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time lines for investment and job creation. Under the agreement, the sponsoring entity will monitor the progress of the project. DED will disburse funds to the sponsoring entity in a manner determined by DED.

B. Funding

1. Eligible project costs may include, but not be limited to, the following:

a. engineering and architectural expenses;

b. site acquisition;

c. site preparation;

d. construction expenses;

e. building materials;

f. capital equipment.

2. Project costs ineligible for award funds include, but are not limited to:

a. recurrent expenses associated with the project (e.g., operation and maintenance costs);

b. company moving expenses;

c. expenses already approved for funding through the state's capital outlay process for which the Division of Administration and the Bond Commission have already approved a line of credit and the sale of bonds;

d. improvements to privately-owned property, unless provisions are included in the project for the transfer of ownership to a public or quasi-public entity;

e. refinancing of existing debt, public or private;

f. furniture, fixtures, computers, consumables, transportation equipment, rolling stock or equipment with useful life of less than seven years.

C. Amount of Award

1. The portion of the total project costs financed by the award may not exceed:

a. 90 percent for projects located in parishes with per capita personal income below the median for all parishes; or

b. 75 percent for projects in parishes with unemployment rates above the statewide average; or

c. 50 percent for all other projects.

2. Other state funds cannot be used as the match for EDAP funds.

3. The award amount shall not exceed 25 percent of the total funds available to the program during a fiscal year.

4. The secretary, in his discretion, may limit the amount of awards to effect the best allocation of resources based upon the number of projects requiring funding and the availability of program funds.

D. Conditions for Disbursement of Funds

1. Grant award funds will be available to the sponsoring entity on a reimbursement basis following submission of required documentation to DED from the sponsoring entity. Only funds spent on the project after the secretary’s approval will be considered eligible for reimbursement.

2. Award funds will not be available for disbursement until:

- a. DED receives signed commitments by the project’s other financing sources (public and private);
- b. DED receives signed confirmation that all technical studies or other analyses (e.g., environmental or engineering studies), and licenses or permits needed prior to the start of the project have been completed or obtained;
- c. all other closing conditions specified in the award agreement have been satisfied.

E. Compliance Requirements

1. Companies and sponsoring entities shall be required to submit progress reports, as specified in the award agreement, describing the progress towards the performance objectives specified in the award agreement.

2. In the event a company or sponsoring entity fails to meet its performance objectives specified in its agreement with DED, DED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

3. In the event a company or sponsoring entity knowingly files a false statement in its application or in a progress report, the company or sponsoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in La. R.S. 14:133.

4. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the sponsoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December, 1997), amended LR 24:

Kevin P. Reilly, Sr.
Secretary

9807#076

DECLARATION OF EMERGENCY

**Department of Economic Development
Office of the Secretary**

Regional Initiatives Program
(LAC 13:I.Chapter 70)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act and the authority of R.S. 51:2341, the Department of Economic Development, Office of the Secretary, hereby finds that emergency action is deemed necessary for the timely

implementation of funding grants for economic development related to regional economic development marketing efforts under the provisions of the Regional Initiatives Program.

This emergency rule is effective June 12, 1998, and shall remain in effect for 120 days or until adoption of the rule, whichever occurs first.

Title 13

ECONOMIC DEVELOPMENT

Part I. Commerce and Industry

Subpart 3. Financial Incentives

Chapter 70. Regional Initiatives Program

§7001. Purpose

The purpose of the program is to stimulate regional economic development efforts by encouraging existing public and private organizations to combine financial and leadership resources to market their shared strengths to overcome their common deficits. The program serves to help create a “spirit of regional cooperation.”

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:

§7003. Definitions

Applicant—the entity requesting financial assistance from DED under this program.

Award—grant funding approved under this program for eligible applicants.

Awardee—an applicant receiving an award under this program.

DED—Louisiana Department of Economic Development.

Operating Costs—ongoing administrative, salary and travel expenses of the organization(s) applying for program funds.

Program—the Regional Initiatives Program.

Secretary—the secretary of the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:

§7005. General Principles

The following principles will direct the administration of the Regional Initiatives Program.

1. Awards should be considered to be one time only funding to achieve a specific goal for a regional (multi-parish) economic development organization or coalition of organizations.

2. Grant proposals must delineate clearly what is proposed and what is to be achieved by the award.

3. Awards are not for the purpose of replacing existing costs, creating new, additional organizations, paying salaries, construction of facilities or acquisition of equipment, unless approved by the secretary.

4. Projects to be funded must augment the Louisiana Economic Development Council's plan and the objectives and strategies of DED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:

§7007. Eligibility

An eligible applicant for the Grant Award can include but is not limited to one of the following.

1. An existing regional economic development organization.

2. Local chambers of commerce.

3. Local economic development organizations.

4. Multi parish organizations funded by local governing authorities and the federal government with an agreement signed by parish heads of government authorizing the group to apply for funds under the Regional Initiatives Program.

5. Consortium of local economic development organizations as evidenced by a written agreement to enter into a proposal for the purposes of the Regional Initiatives Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:

§7009. Criteria

A. Preference will be given to projects that are regional (multi-parish) in scope.

B. Projects must have a positive economic impact on at least an entire parish.

C. Preference will be given to projects that enhance, expand or are intended to foster cooperation among both public and private development entities on a regional basis.

D. Preference will be given to rural areas and to proposals from organizations not already receiving economic development funds from the state.

E. No DED award funds can be used to fund ongoing operating costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:

§7011. Application Procedure

The applicant must submit an application on a form provided by DED which shall contain, but not be limited to, the following.

1. A narrative proposal (maximum of three pages) that

states the objectives and details of the project, what is to be accomplished, the duration of the project, how the proposed project will have a positive economic impact on the parish or region and how the proposed effort will be continued beyond the funding requested.

2. Copy of letter(s) notifying the applicant's local governments, area legislators, and the prevailing economic development organization of your intent to apply for R.I.P. funding.

3. Quantifiable objectives and deliverables for the project and plans to measure the effectiveness of the project according to those objectives and deliverables.

4. A detailed budget for the project including sources of funds and letters of commitment from the funding sources as well as written commitment of the 25 percent match to be used for the project.

5. Résumé(s) of consultants involved with the project.

6. Any additional information the Secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:

§7013. Submission and Review Procedure

A. Applicants must submit their completed application and proposal to the secretary of DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant and other state agencies as needed in order to:

1. evaluate the strategic importance of the project to the economic well-being of the state and region;

2. determine whether the project's funding requirements are best met by the proposed award;

3. validate the information presented;

4. determine the overall feasibility of the applicant's plan.

B. Upon determination that an application meets the eligibility criteria for this program and is deemed to be beneficial to the well-being of the state, DED staff will then make a recommendation to the secretary. If the secretary finds the application complies with the requirements of this program, he may approve the application for funding.

1. No funds spent on the project prior to the secretary's approval will be considered eligible project costs.

2. The secretary will issue a Letter of Commitment to the applicant within five working days of the application review and approval.

3. The final 10 percent of the award amount will not be paid until DED staff reviews the deliverables of the grant agreement to assure that all work has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:

§7015. General Award Provisions

A. Award Agreement. A grant agreement will be executed between DED and the awardee. The agreement will specify the performance objectives and deliverables expected of the

awardee and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time lines for program completion.

B. Use of Funds

1. Any salary of the applicant related to the project is to be funded through the applicant's match.

2. Project costs ineligible for award funds include, but are not limited to:

- a. ongoing operating costs;
- b. furniture, fixtures, computers, transportation equipment, rolling stock or equipment, unless approved by the secretary.

C. Amount of Award

1. The portion of the total project costs financed by the award may not exceed 75 percent of the total project cost.

2. The applicant shall provide at least 25 percent of the total cost; 12½ percent of the total project cost may be in-kind. For the purposes of this program, in-kind is the use, as a match, of the awardee's own resources to accomplish the goals of the project being funded.

3. The secretary, in his discretion, may limit the amount of awards to effect the best allocation of resources based upon the number of projects requiring funding and the availability of program funds.

D. Conditions for Disbursement of Funds

1. Upon notification of the award by the secretary, the awardee can begin spending funds on the project.

2. Award funds will be available to the awardee upon execution of a grant agreement.

3. Award funds will not be available for disbursement until:

- a. DED receives signed commitments by the project's other financing sources (public and private);
- b. all other closing conditions specified in the award agreement have been satisfied.

E. Compliance Requirements

1. The awardee shall be required to submit progress reports, as specified in the award agreement, describing the progress towards the performance objectives specified in the award agreement.

2. In the event an awardee fails to meet its performance objectives specified in its agreement with DED, DED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the awardee in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

3. In the event an awardee knowingly files a false statement in its application or in a progress report, the company or sponsoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in La. R.S. 14:133.

4. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the sponsoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:

Kevin P. Reilly, Sr.
Secretary

9807#075

DECLARATION OF EMERGENCY

**Department of Economic Development
Office of the Secretary**

**Workforce Development and Training Program
(LAC 13:I.Chapter 50)**

The Department of Economic Development, Office of the Secretary, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to promulgate emergency rules of the Louisiana Workforce Development and Training Program effective immediately. These rules will prescribe in accordance with LAC 13:I.Chapter 50. These emergency rules shall be effective July 5, 1998 and shall remain in effect for a period of 120 days or until a final rule is promulgated, whichever occurs first.

The Department of Economic Development is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), in order to publish these rules because of a recognized immediate need to assist businesses with customized workforce training programs in order to create and retain jobs statewide and to reduce confusion regarding the intent, criteria and process for the program.

The emergency rule changes will provide clarification of issues related to the eligible costs of the program. Without these changes, businesses will be severely impacted and the state's workforce will experience a disruption due to an absence of training assistance for continued employment and job retention. Such disruption would likely result in diminished job creation and increased risk of higher unemployment.

The proposed emergency rules are intended to mitigate the disruptions described above.

Title 13

ECONOMIC DEVELOPMENT

Part I. Commerce and Industry

Subpart 3. Financial Incentives

Chapter 50. Workforce Development and Training Program

§5001. Purpose

The purpose of the program is to develop and provide customized workforce training programs to existing and prospective Louisiana businesses as a means of:

- 1. improving the competitiveness and productivity of Louisiana's workforce and business community;
- 2. upgrading employee skills for new technologies or production processes; and
- 3. assisting Louisiana businesses in promoting employment stability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997),

LR 24:

§5003. Definitions

Applicant—the entity requesting training assistance from DED under this program.

Award—funding approved under this program for eligible training activities.

Awardee—an applicant (and/or company(ies)) receiving a training award under this program.

Contract—a legally enforceable agreement between DED, the awardee and a monitoring entity governing the terms and conditions of the training award.

Contractee—the awardee and monitoring entity that are party to a training award contract with DED under this program.

DED—Louisiana Department of Economic Development.

Labor Demand Occupation—an occupation for which there is, or is likely to be, greater demand than supply of adequately trained workers.

Monitoring Entity—a public or not-for-profit entity contracted to monitor the compliance of an awardee with the terms and conditions of a training award contract, and to reimburse the awardee for eligible training costs.

Program—the Workforce Development and Training Program.

Secretary—the secretary of the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary LR 23:1641 (December 1997), LR 24:

§5005. General Principles

The following principles will direct the administration of the Customized Workforce Training Program:

1. training awards are not to be construed as an entitlement for companies locating or located in Louisiana;

2. awards must reasonably be expected to be a significant factor in companies' location, investment, and/or expansion decisions;

3. awards must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities;

4. the retention and strengthening of existing Louisiana businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state;

5. the anticipated economic benefits to the state will be considered in making the award;

6. awards will be coordinated with the existing plans and programs of other government agencies whenever appropriate; and

7. a train-the-trainer approach will be adopted whenever appropriate in order to strengthen the institutional capacity of public and private sector training providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic

Development, Office of the Secretary LR 23:1641 (December 1997), LR 24:

§5007. Program Descriptions

This program provides 3 types of training assistance for companies seeking prospective employees who possess sufficient skills to perform the jobs to be created by the companies. The training to be funded can include:

1. pre-employment training for which prospective employees are identified and recruited for training with the knowledge that the company will hire a portion of the trainees;

2. on-the-job (and/or upgrade) training for employees that is needed to bring the employees up to a minimum skill and/or productivity level; and

3. incumbent training for companies seeking to improve the skills of existing employees in response to technological advances or improved production processes, or the need to ensure compliance with accepted international and industrial quality standards (e.g., ISO standards, proprietary technology).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary LR 23:1641 (December 1997), LR 24:

§5009. Eligibility

A. An eligible applicant is: an employer, labor organization, or community-based organization that seeks customized training services to provide training for a labor demand occupation in a particular industry.

B. Employees to be trained must be employed in Louisiana, except for projects locating at Stennis Space Center in Mississippi. Employees to be trained for projects at Stennis Space Center must be Louisiana residents.

C. A company shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations; including state or federal taxes, or bankruptcy proceeding, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary LR 23:1641 (December 1997), LR 24:

§5011. Criteria

A. General (These apply to all training programs administered under these rules.)

1. Preference will be given to applicants in industries identified by the state as target industries, and to applicants located in areas of the state with high unemployment levels.

2. Employer(s) must be in full compliance with Louisiana unemployment insurance laws.

3. If a company does not begin the project within 365 days of application approval, the secretary, at his discretion, may cancel funding of the training.

B. Pre-employment and On-the-job Training

1. Applicants must create at least 10 net new jobs in the state.

2. Participation in pre-employment training does not guarantee students a job upon completion of their training.

C. Incumbent Retraining. Applicants must request training for at least five employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary LR 23:1641 (December 1997), LR 24:

§5013. Application Procedure

DED will provide a standard form which applicants will use to apply for assistance. The application form will contain, but not be limited to, detailed descriptions of the following:

1. an overview of the company, its history, and the business climate in which it operates;

2. the company's overall training plan, including a summary of the types and amounts of training to be provided and a description of how the company determined its need for training;

3. the specific training programs for which DED assistance is requested, including descriptions of the methods, providers and costs of the proposed training; and

4. any additional information the secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary LR 23:1641 (December 1997), LR 24:

§5015. Submission and Review Procedure

A. Applicants must submit their completed application to DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant, other divisions of the Department of Economic Development, and other state agencies as needed, in order to:

1. evaluate the importance of the proposed training to the economic well-being of the state and local communities;

2. identify the availability of existing training programs which could be adapted to meet the employer's needs;

3. verify that the business will continue to operate during the period of the contract;

4. determine if employer's training plan is cost effective.

B. A cost-benefit analysis tailored to applicants' specific industries shall be conducted by DED to determine the net benefit to the state of the proposed training award. Such analysis will include, but not be limited to, evaluations of:

1. the importance of the proposed training to the recruitment/retention of businesses and/or jobs in the state;

2. the training award is expected to be a significant factor in the company's location, investment, and/or expansion decision; and

3. the fiscal impact of the proposed training on state and local governments.

C. Upon determination that an application meets the criteria for this program, DED staff will then make a recommendation to the secretary of the Department of Economic Development. The application will then be reviewed and approved by the following entities in the following order:

1. the secretary of the Department of Economic Development;

2. the governor; and

3. the Joint Legislative Committee on the Budget.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary LR 23:1641 (December 1997), LR 24:

§5017. General Award Provisions

A. Award Agreement

1. A contract will be executed between DED, the applicant (and/or company(ies) receiving training) and an appropriate monitoring entity from the same geographic area as the applicant. The contract will specify the performance objectives expected of the company(ies) and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time lines for job training and job creation.

2. DED will disburse funds to the monitoring entity in a manner determined by DED.

3. The monitoring entity will monitor the progress of the training and reimburse the applicant from cost reports submitted by the applicant on a form approved by DED. DED, at its discretion, may request the monitor to obtain additional information.

4. The cost associated with this contract incurred by the monitoring entity will be considered part of the total training award, but will not exceed 5 percent of the award amount or \$10,000.00, whichever is less.

5. Funds may be used for training programs extending up to two years in duration.

6. Contracts issued under previous rules may be amended to reflect current regulations as of the date of the most recent change, upon request and approval of the contractor and the secretary.

B. Funding. Award may include pre-employment, new employee and/or incumbent training not to exceed \$500,000 for total amount.

1. The Louisiana Workforce Development and Training Program offers financial assistance in the form of a grant for reimbursement of eligible training costs specified in the award agreement.

2. Eligible training costs may include the following:

a. Instruction Costs: wages for company trainers and training coordinators, Louisiana public and/or private school tuition, contracts for vendor trainers, training seminars;

b. Travel Costs: travel for trainers and training coordinators, and travel for trainees.

c. Materials and Supplies Costs: training texts and manuals, audio/visual materials, raw materials and Computer Based Training (CBT) software; and

d. Other Costs: facility rental and fees or service costs incurred by the monitoring entity associated with the contract to monitor the training and to disburse award funds, as limited by §5017.A.4 above.

3. Training costs ineligible for reimbursement include:

- a. trainee wages and fringe benefits;
- b. non-consumable tangible property (e.g., equipment, calculators, furniture, classroom fixtures, non-Computer Based Training (CBT) software), unless owned by a public training provider;
- c. out-of-state, publicly supported schools;
- d. employee handbooks;
- e. scrap produced during training;
- f. food, refreshments; and
- g. awards.

4. Training activities eligible for funding consist of:

a. transferable skills: skills which will enhance an employee's general knowledge, employability and flexibility in the workplace (e.g., welding, computer skills, blueprint reading, etc.);

b. company-specific skills: skills which are unique to a company's workplace, equipment and/or capital investment;

c. quality standards skills: skills which are intended to increase the quality of a company's products and/or services and ensure compliance with accepted international and industrial quality standards (e.g., ISO standards); and

d. skills pertaining to instructional methods and techniques used by trainers (e.g., train-the-trainer activities).

C. Conditions for Disbursement of Funds

1. Funds will be available on a reimbursement basis following submission of required documentation to DED by monitoring entity. Funds will not be available for reimbursement until a training agreement between the applicant (and/or company(ies) receiving the training) and an approved training provider has been executed. Only funds spent on the project after the secretary's approval will be considered eligible for reimbursement.

2. Companies will be eligible for reimbursement at 90 percent until all contracted performance objectives have been met. After the company has achieved 100 percent of its contracted performance objectives, the remaining 10 percent of the grant award will be made available for reimbursement.

D. Compliance Requirements

1. Contractees shall be required to complete quarterly reports describing progress toward the performance objectives specified in their contract with DED.

2. The termination of employees during the contract period who have received program-funded training shall be for documented cause only, which shall include voluntary termination.

3. In the event a company or sponsoring entity fails to meet its performance objectives specified in its contract with DED, DED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

4. In the event a company or monitoring entity knowingly files a false statement in its application or in a progress report, the company or monitoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in La. R.S. 14:133.

5. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the monitoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary LR 23:1641 (December 1997), LR 24:

Kevin P. Reilly, Sr.
Secretary

9807#082

DECLARATION OF EMERGENCY

Department of Economic Development Racing Commission

Apprentice Contract (LAC 35:XLI.705)

The Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule effective June 11, 1998. This rule shall remain in effect for 120 days or until it takes effect through the normal promulgation process, whichever comes first.

The Racing Commission finds it necessary to amend this rule to shorten an apprentice jockey's apprentice period from three to two years, which will be consistent with other racing jurisdictions.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLI. Horseracing Occupations

Chapter 7. Jockeys and Apprentice Jockeys

§705. Apprentice's Contract

A. ...

B. An apprentice shall start with 5 pounds allowance. He shall continue this allowance for one year from the date of his fifth winner, after which, if he has not ridden 40 winners in the year following the date of his fifth winner, he shall continue the allowance for a period not to exceed two years from the date of his first winner or until he has ridden 40 winners, whichever occurs first.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, R.S. 4:150 and R.S. 4:151.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:431 (December 1976), LR 3:27 (January 1977), repromulgated LR 4:276 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 17:588 (June 1991), LR 24:

Paul D. Burgess
Executive Director

9807#006

DECLARATION OF EMERGENCY

**Department of Economic Development
Racing Commission**

Displaying Daily Double Rule (LAC 35:XIII.10521)

The Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule effective June 11, 1998, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Racing Commission finds it necessary to amend this rule to allow racing associations to display the full daily double rule in the betting area as opposed to printing it in their daily racing program, which is consistent with other wagering rules.

**Title 35
HORSE RACING
Part XIII. Wagering**

**Chapter 105. Daily Double
§10521. Displaying Daily Double Rule**

This rule shall be prominently displayed throughout the betting area of each track conducting the trifecta and printed copies of this rule shall be distributed by the track to patrons upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 11:616 (June 1985), amended by the Department of Economic Development, Racing Commission, LR 24:

Paul D. Burgess
Executive Director

9807#004

DECLARATION OF EMERGENCY

**Department of Economic Development
Racing Commission**

Field Less Than Six (LAC 35:XIII.11115)

The Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S.

**Title 28
EDUCATION**

4:141 et seq., adopts the following emergency rule effective June 11, 1998, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Racing Commission finds it necessary to amend this rule to permit trifecta wagering when there are six or more horses running (previously eight) in a race.

**Title 35
HORSE RACING
Part XIII. Wagering**

**Chapter 111. Trifecta Wagering
§11115. Field Less Than Six**

A. Trifecta wagering will be permitted when the number of scheduled starters in a thoroughbred or quarter horse race is six or more. A late scratch after wagering begins on that race will not cancel trifecta wagering.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 11:616 (June 1985), amended by the Department of Economic Development, Racing Commission, LR 18:366 (April 1992), LR 22:13 (January 1996), LR 24:

Paul D. Burgess
Executive Director

9807#005

DECLARATION OF EMERGENCY

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Opportunity Program for Students
(TOPS)(LAC 28:IV.Chapters 1-21)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to adopt rules to implement Act 165 of the 1998 First Extraordinary Legislative Session as it affects the Tuition Opportunity Program for Students (R.S. 17:3048.1) and the Tuition Opportunity Program for Teachers (R.S. 17:3042.1).

The emergency rules are necessary to implement the new statutory provisions effective for the 1998-99 school year and to allow the Louisiana Office of Student Financial Assistance and state educational institutions to prepare for the implementation of these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective June 20, 1998, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

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

Chapter 1. Scope

§101. Introduction

A. Statutory Authority. The Louisiana Student Financial Assistance Commission (LASFAC) was created by Chapter 20, Higher Education Assistance, Louisiana Revised Statutes of 1950, comprised of R.S. 17:3021-3036, for the purpose of supervising, controlling, directing and administering state and federal programs to provide loans to assist persons in meeting the expenses of higher education, and state and federal scholarship and grant programs for higher education. The Louisiana Office of Student Financial Assistance (LOSFA), under authority of the commission, administers state and federal postsecondary student scholarship, grant and loan programs.

B. Agency's Mission Statement. The mission of LOSFA is to provide resources to Louisiana residents for the pursuit of postsecondary education.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:

§103. Purpose

A. LAC 28:IV provides the rules and regulations governing participation in the scholarship and grant programs administered by LASFAC including, but not limited to:

1. applicants and recipients;
 2. high school counselors;
 3. principals and headmasters;
 4. superintendents;
 5. college and university financial aid directors and staff;
- and
6. federal and state authorities.

B. LAC 28:IV was developed to meet the following objectives:

1. establish scholarship and grant policies and procedures that implement and explain or interpret statutes;
2. define the program responsibilities of participants (applicants, recipients, and high school, school board and postsecondary institution officials);
3. ensure that scholarships and grants are awarded in accordance with statute and legislative intent;
4. establish procedures to monitor the performance of scholarship and grant recipients;
5. ensure compliance with statutory and regulatory provisions governing the administered programs.

C. Since these rules and regulations can neither anticipate nor address every situation that might be encountered in the administration of the scholarship and grant programs included herein, participants in doubt about the applicability or interpretation of a rule or regulation in LAC 28:IV are advised to contact LOSFA for guidance.

D. LAC 28:IV shall be amended and updated as necessary. Such updates will be forwarded to institutions in the form of

Scholarship and Grant Program Memoranda (SGPM). SGPM will cover additions, deletions, revisions and clarifications to the rules and regulations.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:632 (April 1998), amended LR 24:

§105. Effective Date

These rules and regulations are effective for awards beginning with the 1998-99 academic year.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:

§107. Authority to Audit

By participating in the scholarship and grant programs administered by LASFAC and described in LAC 28:IV, all participants, including high schools and postsecondary institutions, grant LASFAC and the Louisiana legislative auditor the right to inspect records and perform on-site audits of each institution's administration of the programs for the purpose of determining the institution's compliance with state law and LASFAC's rules and regulations.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR:24:

§109. Discrimination Prohibition

The exclusion of a person from equal opportunity for a Louisiana scholarship and/or grant program administered by LASFAC because of race, religion, sex, handicap, national origin or ancestry is prohibited. No policy or procedure of this agency shall be interpreted as superseding or contradicting this prohibition.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:

§111. Criminal Penalties

All certifications of student performance which are submitted to LASFAC for the purpose of determining a student's eligibility for an award under a student aid program administered by LASFAC shall be by sworn affidavit of the certifying official and such official shall be subject to criminal law applicable to false swearing.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:

Chapter 3. Definitions

§301. Definitions

Where the masculine is used, in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Academic Year (College)—the two- and four-year college and university academic year begins with the fall term of the award year, includes the winter term, if applicable, and culminates with the completion of the spring term of the award year. The two- and four-year college and university academic year does not include summer sessions or intersessions. The Louisiana Technical College academic year begins with the fall quarter, includes the winter and spring quarters and culminates with the summer quarter.

Academic Year (High School)—the annual academic year for high school begins with the fall session, includes the winter and spring terms and ends at the conclusion of the summer term, in that order. For purposes of determining the top 5 percent of the 1997-98 graduating class only, the annual academic year for high school begins with the summer session, includes the fall terms and ends at the conclusion of the spring term, in that order. This definition is not to be confused with the Louisiana Department of Education's definition of *school year*, which is found in Louisiana Department of Education Bulletin 741.

ACT Score—the highest composite score achieved by the student on the official American College Test prior to the date of high school graduation or an equivalent score, as determined by the comparison tables used by LOSFA, on the Scholastic Aptitude Test (SAT) taken prior to the date of high school graduation. ACT test scores which are unofficial, including so-called "residual" test scores, are not acceptable for purposes of determining program eligibility.

BESE—Board of Elementary and Secondary Education, elected and appointed body with statutory oversight of Louisiana special, elementary and secondary schools.

Cost of Attendance—the total amount it will cost a student to go to school, usually expressed as an academic year figure. This cost is determined by the school in compliance with Title IV of the Higher Education Act of 1965, as amended, and is annually updated and adopted by the institution. The cost of education covers tuition and fees, on-campus room and board (or a housing and food allowance for off-campus students) and allowances for books, supplies, transportation, child care, costs related to a disability, and miscellaneous expenses. Also included are reasonable costs for eligible programs of study abroad. An allowance (determined by the school) is included for reasonable costs connected with a student's employment as part of a cooperative education program.

Cumulative High School Grade Point Average—the final cumulative high school grade point average calculated on a 4.00 scale for all courses attempted. For those high schools that utilize other than a 4.00 scale, all grade values must be converted to a 4.00 scale utilizing the following formula:

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

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

By cross multiplying,

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

Quality points = Credit for course multiplied by the value assigned to the letter grade.

Dependent Student—a student who is dependent on his or

her parents or legal guardian for support and therefore is required to include parental information on the Free Application for Federal Student Aid (FAFSA) or renewal FAFSA.

Disabled Student—a student who has one or more learning, visual, hearing, or physical disabilities diagnosed by a person licensed or certified to diagnose such disability, when the diagnosis states the need for the student to be provided special accommodations relative to the curriculum requirement.

Eligible Noncitizen—an individual who can provide documentation from the Immigration and Naturalization Service (INS) that he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident. Including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of the U.S. must provide documentation from the INS to verify permanent residency.

Eligible Non-Louisiana High School and Eligible Out of State High School—See §1701.A.4.

Exceptional Child—a student defined as an exceptional child in accordance with R.S.17:1943(2), excluding gifted and talented.

Expected Family Contribution (EFC)—an amount, determined by a formula established by Congress, that indicates how much of a family's financial resources should be available to help pay for the student's cost of attendance. Factors such as taxable and nontaxable income, assets (such as savings and checking accounts), and benefits (for example, unemployment or Social Security) are all considered in this calculation.

Fee Schedule—a listing of the actual tuition and mandatory fees for attendance at a postsecondary school as defined by the institution.

First-Time Freshman—a student who enrolls for the first time as a full-time freshman in a postsecondary school subsequent to high school graduation, and continues to be enrolled full time on the fourteenth class day (ninth class day for Louisiana Tech). A student who begins postsecondary or university attendance in a summer session will be considered a first-time enrollee for the immediately succeeding fall term. As a one time exception and for the purposes of the TOPS Program, students who graduated from high school in Academic Year 1996-97 are considered first time freshman for the 1998 fall term, if they are in academic good standing.

Full-Time Student—

a. a student enrolled in an institution of higher education who is carrying a full-time academic workload as determined by the school under the standards applicable to all students enrolled;

b. for continuation purposes, a student is considered to have met the full-time requirement if by the completion of the spring term he has earned at least 24 hours of total credit during the fall, winter and spring terms at an institution defining 12 semester or eight quarter hours as the minimum for full-time undergraduate status;

c. for programs which permit graduate study, a graduate student must have earned at least 18 hours of total credit during the fall, winter and spring terms;

d. a workload of at least 30 clock hours per week is the full-time equivalent at a technical college.

High School Graduate—for the purposes of these rules, is defined as a student certified by award of a high school diploma to have satisfactorily completed the required units at a Louisiana public or BESE-approved nonpublic high school or certified by award of a high school diploma from an Eligible Non-Louisiana High School or certified by award of a high school diploma from an eligible out-of-state public or non-public high school approved by the appropriate state agency in said state or a student who has completed at least the final two years of a BESE-approved home study program and has reported such to BESE.

Independent Student— a student who meets at least one of the criteria listed in Subparagraphs a. - f. or has been determined independent by a financial aid officer exercising professional judgment in accordance with applicable provisions of the Higher Education Act of 1965, as amended:

- a. reached 24 years of age prior to January of the year preceding the academic year for which the student is applying for aid;
- b. is a veteran of the U.S. Armed Forces, including a student who was activated to serve in Operation Desert Storm;
- c. is an orphan or a ward of the court or was a ward of the court until age 18;
- d. has legal dependents other than a spouse;
- e. is a graduate or professional student;
- f. is married.

Louisiana Resident—

a. any person or independent student who has resided in the state for a period of two years or more, or for some other period of residency which is required to qualify the person for a specific program administered by the LASFAC, and has manifested an intent to permanently reside in the state by establishing Louisiana as their legal domicile and by complying with all of the following that are applicable to that person:

- i. if registered to vote, is registered to vote in Louisiana; and
- ii. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license; and
- iii. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle; and
- iv. if earning an income, has complied with Louisiana state income tax laws and regulations.

b. any dependent student who has at least one parent or a legal guardian who qualifies as a resident in accordance with a, above.

c. any member of the Armed Forces on active duty whose official military personnel or pay records show that the member claims Louisiana as his home of record and who has filed a Louisiana tax return for the most recent two years in compliance with a.iv, above.

Merit Ranking Formula—a mathematical equation incorporating selected merit factors which is used to rank eligible applicants in the priority by which competitive scholarships are to be awarded. As of July 1, 1997, the TOPS Teacher Award and Rockefeller State Wildlife Scholarship are the only programs in which applicants are competitively

ranked. The following formulas for the merit ranking of scholarship applicants provide for the equating of scores for high school graduating seniors and college students.

a. Formula I—applies to applicants for the Rockefeller State Wildlife Scholarship with less than 24 hours of graded college credit and to applicants for the TOPS—Teacher Award with less than 48 hours of graded college credit:

$$\text{Merit Score} = \left(\left(\frac{\text{HSGPA}}{4.00} \right) \times 60 \right) \% \left(\left(\frac{\text{ACT}}{36} \right) \times 40 \right)$$

b. Formula II—applies to applicants for the Rockefeller State Wildlife Scholarship with 24 or more hours of graded college credit and to applicants for the TOPS—Teacher Award with 48 or more hours of graded college credit:

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

c. Formula III—applies to applicants for the TOPS Teacher Award. For those applicants majoring in math or chemistry, an additional 10 points are added to the merit score determined by Formula I or II, resulting in an adjusted merit score.

d. Applicants' merit scores are ranked in descending order with the applicant with the highest merit score ranked first. The number of applicants selected for award is dependent upon the amount of award funds available.

Monetary Repayment—for purposes of the Rockefeller State Wildlife Scholarship and TOPS Teacher Award Programs, repaying the scholarship funding received, plus any interest accrued under the terms of the promissory note signed by the recipient, if the recipient fails to fulfill the terms of the program. See *Repayment*.

Over Award—for the purposes of LAC 28:IV, an over award occurs when a student received financial aid in excess of the cost of attendance as established in accordance with federal Title IV regulations or an award under state programs to which the student was not entitled.

Refund—a refund of school charges that the school makes to a student or to a creditor on behalf of the student, usually after the student has withdrawn from school. The refund to the student is the difference between the amount the student paid toward school charges minus the amount the school keeps for the portion of the payment period that the student was enrolled.

Repayment—the amount of the cash disbursement that a student must pay back to the school if the student withdraws from the program. If the cash disbursement was greater than the student's cost of attendance (student's education costs above and beyond the amount of tuition and fees) up to the withdrawal date, the student must repay the excess amount. The actual amount of the refund/repayment is determined according to the school's policy in accordance with federal regulations. See *Monetary Repayment*.

Substantial Financial Need—for purposes of the SSIG program only, substantial financial need is the difference between the student's cost of attendance and the sum of that student's expected family contribution (EFC), plus other student aid the student is due to receive. The difference thus computed must exceed \$199.

Tuition—the fee charged each student by a postsecondary institution to cover the student's share of the cost of instruction, including all other mandatory enrollment fees charged to all students, except for the Technology Fee authorized by Act 1450 of the 1997 Regular Session of the Legislature, which were in effect as of January 1, 1998, and any changes in the cost of instruction authorized by the legislature and implemented by the institution after that date.

Undergraduate Student—a student who has not completed the requirements for a baccalaureate degree program and/or is not classified as a professional student for the purposes of receipt of federal student aid.

Weighted Average Tuition—the total dollar value of awards made under the TOPS in the prior academic year, excluding award stipends, to students attending public colleges and universities that offer academic degrees at the baccalaureate level, divided by the total number of students that received the awards. For the 1998-99 award year only, the Weighted Average Tuition shall be computed using the total dollar value of awards made to students during academic year 1997-98 under the TAP and Louisiana Honors Scholarship Programs who attended public institutions which offer academic undergraduate degrees.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:

Chapter 5. Application; Application Deadlines and Proof of Compliance

§501. Application

All new applicants for, and all continuing recipients of, Louisiana scholarship and grant programs must annually apply for state and federal aid by completing the Free Application for Federal Student Aid (FAFSA) or the renewal FAFSA, whichever is applicable to the individual student. The deadline for priority consideration for state aid is published in the FAFSA's instructions and may be revised annually by the LASFAC.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:

§503. Application Deadlines

A. Deadline for Priority Consideration

1. For priority consideration for the 1998-99 award year, applicants must submit the FAFSA to be received by the federal processor by June 1, 1998.

2. Priority consideration means that an applicant who submits a FAFSA by this date shall, under normal circumstances, receive notification of his eligibility for a noncompetitive award (TOPS Opportunity, Performance and Honors Awards) prior to enrolling in the fall term.

3. An applicant for a competitively awarded scholarship

(TOPS Teacher Award and Rockefeller State Wildlife Scholarship) who submits a FAFSA by this date shall be considered for selection of award in the first round of applicants awarded.

4. For priority consideration for award years after 1998-99, applicants must submit the FAFSA to be postmarked by April 15, or to be received by the federal processor by May 1, preceding the award year.

B. Final Deadline. The final deadline to apply for state aid is March 1 of the award year, by which time the FAFSA must have been received by the federal processor. For example, for the 1998-99 award year, the final deadline date for receipt of the application by the federal processor is March 1, 1999.

C. If a prescribed deadline date falls on a weekend or holiday, it will automatically be extended to the next business day.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:

§505. Proof of Compliance

As proof of compliance with the state's final deadline for submitting the FAFSA, LASFAC will accept the documentation listed in §505.1-3. No other form of verification, including notarized or certified statements, will be accepted as proof of compliance with the deadline requirement.

1. A certificate of mailing, registered, certified, certified/return receipt requested, priority or overnight mail receipt from the United States Postal Service, or other authorized mail carriers such as United Parcel Service and Federal Express, which is dated prior to the state's final deadline.

2. The Institutional Student Information Report (ESAR ISIR), produced by the federal processor, shows that the original application was received by the state's final deadline.

3. The federal processor provides verbal or written verification to LASFAC that the original application was received by the state's final deadline.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:

§507. Final Deadline for Submitting Documentation of Eligibility

A. LASFAC will continue to process eligibility for both new and renewal applicants during each award year until May 1 of the spring term of that award year.

B. Students not determined eligible by May 1 of the spring term of the award year are ineligible to receive program funding that award year.

C. All documentation and certifications necessary to establish student eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of Student Aid Reports, applicant confirmation forms, promissory notes and other documents which may be utilized in determining eligibility, must be received by LASFAC no later than May 1 of the award year. For example, to receive an award for the 1998-99 award year, LASFAC must have in its

possession all documents relevant to establishing eligibility by May 1, 1999.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:

Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity; Performance and Honors Awards

§701. General Provisions

A. Legislative Authority. Awards under the Louisiana Tuition Opportunity Program for Students (TOPS), the Opportunity, Performance and Honors Awards, are established as set forth in R.S. 17:3048.1 et seq., as amended.

B. Description, History and Purpose. The Tuition Opportunity Program for Students (TOPS) is a comprehensive, merit-based student aid program consisting of a series of components, with each component having its own eligibility criteria and titled award. The purpose of TOPS is to provide an incentive for Louisiana residents to academically prepare for and pursue postsecondary education in this state, resulting in an educated work force enabling Louisiana to prosper in the global market of the future. The major components of TOPS are the Opportunity award, the Performance award and the Honors award.

C. The Opportunity, Performance and Honors awards, which will be funded for the 1998-99 academic year, combine former programs (Louisiana Tuition Assistance Plan [TAP] and the Louisiana Honors Scholarship Program) with a new component, the Honors award, to produce a comprehensive program of state scholarships.

D. The purposes of this program are to:

1. financially assist those students who are academically prepared to continue their education at a Louisiana postsecondary institution; and

2. encourage academic excellence; and

3. provide incentives for Louisiana high school graduates to pursue postsecondary education in this state.

E. Award Amounts. The specific award amounts for each component of TOPS are as follows.

1. The TOPS Opportunity Award provides an amount equal to undergraduate tuition for full-time attendance at Louisiana public two- and four-year colleges and universities.

2. The TOPS Performance Award provides a \$400 annual stipend, in addition to an amount equal to tuition for full-time attendance at Louisiana public two- and four-year colleges and universities.

3. The TOPS Honors Award provides an \$800 annual stipend, in addition to an amount equal to tuition for full-time attendance at Louisiana public two- and four-year colleges and universities.

4. In lieu of the amount equal to tuition as provided by §701.E.1-3, students participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provide therein,

b. the dependents of Louisiana residents on active duty

plus any applicable TOPS stipend and a sum of not more than \$150 per semester or \$300 annually for the actual cost of books and other instructional materials.

5. Students attending a regionally accredited independent college or university which is a member of the Louisiana Association of Independent Colleges and Universities (LAICU) receive an amount equal to the Weighted Average Tuition, as defined in §301, plus any applicable stipend.

6. Recipients of TOPS Awards who are also beneficiaries of Student Tuition Assistance and Revenue Trust (START) Saving Program accounts, may apply the START disbursements to pay tuition, and any remaining tuition due may be paid by the TOPS award. Any balance of the TOPS award which remains after payment of the institution's charges, shall be credited to the student's account and treated in accordance with institutional policies. In the event the student's total aid, including Vocational Rehabilitation Awards, exceeds the Cost of Attendance, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the TOPS Award shall be reduced by the amount of any remaining over award.

7. Students funded under the Tuition Assistance Plan (TAP) or the Louisiana Honors Scholarship during the 1997-98 award year, who have maintained eligibility for the 1998-99 award year, shall be continued as TOPS Opportunity or Performance recipients, respectively.

8. Prior recipients of the Louisiana Honors Scholarship who attend a campus of the Louisiana Technical College may continue to attend that institution as a recipient of TOPS Performance award; however, they are not eligible to receive the stipend that normally accompanies that award.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:

§703. Establishing Eligibility

A. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, the student applicant must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen, and be registered with the Selective Service, if required, unless the institutional Financial Aid Officer determines that failure to register was not wilful; and

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV for not less than two years prior to the date of high school graduation, or if completing an approved home study program, no less than two years prior to the FAFSA processor receipt date; and

3. annually submit the completed Free Application for Federal Student Aid (FAFSA) or renewal FAFSA by the applicable state aid deadline defined in §503; and

- a. students who can demonstrate to LASFAC that they do not qualify for federal grant aid because of their family's financial condition are not required to complete those sections of the FAFSA related to the income and assets of the applicant and the applicant's parents;

with the Armed Forces stationed outside of the state of

Louisiana must enter a Louisiana postsecondary institution in that section of the FAFSA which asks the applicant to name the colleges he plans to attend; and

4. initially apply and enroll as a *First-Time Freshman* as defined in §301, unless granted an exception for cause by LASFAC, in an eligible postsecondary institution defined in §1901, and:

a. if graduating from an eligible Louisiana or an eligible non-Louisiana high school, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student graduated from high school; or

b. if the student joins the United States Armed Forces within one year after graduating from an approved high school, enroll not later than the semester, excluding summer semesters or sessions, immediately following the fifth anniversary of the date that the student graduated from high school or within one year from the date of discharge, whichever is earlier;

c. if the student is eligible under the provisions of §703.A.5.c, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the receipt date on the initial FAFSA submitted by the student; or

d. if the student is eligible under the provisions of §703.A.5.c and has joined and is on active duty with the United States Armed Forces within one year of completion of the twelfth grade of an approved home study program, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the fifth anniversary of the completion of the approved home study program or within one year from the date of discharge, whichever is earlier; or

e. if a 1996-97 graduate who is an otherwise eligible applicant, enroll as a full-time student during fall, 1998;

5.a. graduate from a BESE-approved, provisionally-approved, or probationally-approved public or nonpublic Louisiana high school or eligible non-Louisiana high school as defined in §1703.A.3; and

i. at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work constituting a core curriculum as follows:

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or Comparable Advanced Math
1	Biology I
1	Chemistry I
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II or Physics, Physics II or Physics for Technology
1	American History

1 World History, World Culture, Western Civilization or World Geography

1 Civics and/or Economics/Free Enterprise

1 Fine Arts Survey; (or substitute two units Performance courses in Music, Dance and/or Theater; or two units of Studio Art or Visual Art; or one elective from among the other subjects listed in this core curriculum)

2 In the Same Foreign Language (one unit or credit for three or more hours of college foreign language for students graduating from high school during the 1996-97 and 1997-98 school years).

½ Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; (or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

ii. core units are waived upon sworn affidavit by the school board superintendent for public schools or by the principal or headmaster for nonpublic high schools that the course was not available to the student at the school attended; or

b. graduate from a BESE approved, provisionally-approved or probationally-approved public or nonpublic Louisiana high school or eligible non-Louisiana high school as defined in §1703.A.3. and have completed the core curriculum defined in §703.A.5.a.i, unless the following exceptions apply:

i. for students in graduating classes prior to the year 2001, one or more core units are waived based upon a sworn affidavit by the principal or headmaster or authorized designee that the course was not available to the student at the school attended;

ii. for students who are *exceptional* or *disabled*, as defined in §301, be unable to complete one or more units in the core curriculum solely because of the exceptionality or disability;

iii. for students graduating in academic years 1996-97 and 1997-98, have successfully completed all requirements of the core curriculum except Foreign Language, and have successfully completed at least one unit of high school Foreign Language or three credit hours of Foreign Language in a postsecondary institution and have forwarded to LASFAC a transcript from the institution showing successful completion of at least three credit hours of Foreign Language; or

c. graduate from an out-of-state public or private high school approved by the chief state and territorial school officer (or the state agency which is the equivalent of Louisiana's Board of Elementary and Secondary Education) of the state in which the school is located (See §1701.A.4.); or

d. successfully complete at least the eleventh and twelfth grade levels of a home study program approved by BESE; and if having previously attended a Louisiana public high school, a Louisiana nonpublic high school, or an approved non-Louisiana high school, has provided LASFAC with certification by the previously attended high school that said student was in good standing at the time the student last attended such school; and

6. at the time of high school graduation, have taken the

American College Test (ACT) and have correctly entered the applicant's high school code published by ACT, or for graduates of out-of-state high schools or approved home-study programs, that code assigned by ACT and have a composite test score or an equivalent concordant value on the Scholastic Aptitude Test (SAT) of at least:

- a. if qualifying under the terms of §703.A.5.a or b;
 - i. the state's reported prior year ACT composite average, rounded, but never less than 19 for the Opportunity Award; or
 - ii. a 23 for the Performance Award; or
 - iii. a 27 for the Honors Award; or
- b. if qualifying under §703.A.5.c or d;
 - i. the state's reported prior year average plus 3 points, rounded, but never less than 22 for the Opportunity Award; or
 - ii. a 26 for the Performance Award; or
 - iii. a 30 for the Honors Award; or
7. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and
8. not have a criminal conviction, except for misdemeanor traffic violations, and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and
9. agree that awards will be used exclusively for educational expenses.

B. Students qualifying under §703.A.5.a and b, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, for all courses attempted and recorded on the high school transcript of at least:

- a. a 2.50 for the Opportunity Award; or
- b. a 3.50 for either the Performance or Honors Awards.

C. Students qualifying under §703.A.5.a and b, for the Performance Award only, must be certified as graduating in the top 5 percent of the 1997-98 high school graduating class, as defined in LAC 28:IV §1703.B.4, in lieu of completing the core curriculum.

D. Students who have qualified academically for more than one of the TOPS awards, excluding the TOPS Teacher Award, shall choose the award they wish to receive and thereafter must meet the renewal requirements of the award chosen. This choice, once made, is irrevocable.

E. Students graduating in academic years 1996-97 and 1997-98 who qualify under §703.A.5.b.iv, (graduates who did not complete one year of high school foreign language), must provide LASFAC a copy of their college transcript showing completion of one or more foreign language courses. Eligibility for an award is not established until receipt of the transcript verifying that the foreign language credit was

earned and the student shall first be awarded for the semester or term following that in which eligibility was established. Under this provision, eligibility must be established not later than the conclusion of the 1998-99 award year.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:636 (April 1998), amended LR 24:

§705. Maintaining Eligibility

A. To continue receiving the TOPS Opportunity, Performance or Honors Awards, the recipient must meet all of the following criteria:

1. have received less than four years or eight semesters of TOPS Award funds; and
2. annually submit the Free Application for Federal Student Aid (FAFSA) or renewal FAFSA by the applicable state aid deadline defined in §501; and
3. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and
4. not have a criminal conviction, except for misdemeanor traffic violations and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and
5. agree that awards will be used exclusively for educational expenses; and
6. continue to enroll and accept the TOPS award as a full-time undergraduate student in an eligible postsecondary institution, as defined in §1901, unless granted an exception for cause by LASFAC; and
7. earn at least 24 college credit hours during the fall and spring semesters or fall, winter and spring quarters, as evaluated at the conclusion of the spring term. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; and
8. not be on academic probation the prior academic year, term, or semester at the postsecondary institution attended; and
9. maintain, by the end of each academic year (the conclusion of the spring term), a cumulative college grade point average (GPA) on a 4.00 maximum scale of at least:

- a. a 2.30 with the completion of less than 48 credit hours, a 2.50 after the completion of 48 credit hours, for continuing receipt of an Opportunity Award; or

- b. a 3.00 for continuing receipt of either a Performance or Honors Award.

B. Students failing to meet the requirements listed in §705.A.8 or §705.A.9.a or b may have their tuition awards reinstated upon the lifting of academic probation and/or attainment of the required GPA, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility. Students who are reinstated to a Performance or Honors Award are no longer eligible to receive the annual stipends that normally accompany these awards.

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

24:637 (April 1998), amended LR 24:

Chapter 8. TOPS-TECH Award

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR

§801. General Provisions

A. Legislative Authority. The TOPS-TECH Award was created by Act of the 1998 First Extraordinary Session of the Louisiana Legislature.

B. Description, History and Purpose. The TOPS-TECH award is a merit based scholarship program for Louisiana residents pursuing skill or occupational training at a Louisiana public community or technical college. The purpose of TOPS-TECH is to provide an incentive for qualified Louisiana residents to prepare for and pursue technical positions in Louisiana.

C. TOPS-TECH shall be first awarded beginning with the 1998-99 academic year to 1998 high school graduates and graduates in subsequent years.

D. TOPS-TECH provides an amount equal to tuition for up to two years of technical training at a public postsecondary institution that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

§803. Establishing Eligibility

A. To establish eligibility for the TOPS-TECH Award, the student applicant must meet the following criteria:

1. be a U.S. citizen or national or eligible noncitizen, and be registered with the Selective Service, if required, unless the institutional Financial Aid Officer determines that failure to register was not wilful; and
2. be a resident of Louisiana, as defined in §301 of LAC 28:IV, for not less than two years prior to the date of high school graduation, or if completing an approved home study program, no less than two years prior to the FAFSA processor receipt date; and
3. annually, submit the completed Free Application for Federal Student Aid (FAFSA) or renewal FAFSA by the applicable state aid deadline defined in §503; and
4. initially apply and enroll in a technical program as a First-Time Freshman, as defined in §301, in a public community or Louisiana Technical College, unless granted an exception for cause by LASFAC, not later than the term or semester excluding summer semesters or sessions, immediately following the first anniversary of the date that the student graduated from high school or, if the student joins the United States Armed Forces within one year after graduating from high school, has enrolled in such eligible institution as a first-time freshman not later than the semester, excluding summer semesters or sessions, immediately following the fifth anniversary of the date that the student graduated from high school; and
5. graduate from:
 - a. a BESE-approved, provisionally-approved, or probationally-approved public or nonpublic high school or eligible non-Louisiana high school, as defined in §1701.A.1, 2 and 3; or
 - b. an *out-of-state high school* defined in §1701.A.4; or
 - c. successfully complete the eleventh and twelfth grades of a home study program approved by BESE; and if

having previously attended a Louisiana public high school, a Louisiana nonpublic high school, or an approved non-Louisiana high school, has provided LASFAC with certification by the previously attended high school that said student was in good standing at the time the student last attended such school;

6. if qualifying under the terms of §703.A.5.a, at the time of high school graduation, have successfully completed 16.5 units of high school course work constituting the TOPS core curriculum as defined in §703.A.5. or the TOPS-TECH core curriculum as follows:

a. Core Curriculum—TOPS-TECH Award	
Units	Course
1	English I
1	English II
1	English III
1	English IV or Business English
1	Algebra I (one unit) or Applied Algebra IA and 1B (two units)
1	Algebra II
1	Geometry, Applied Geometry, Trigonometry, Calculus or comparable Advanced Math
1	Biology I
1	Chemistry I or Applied Physics
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II Physics, Physics II or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, non-public)
1	Fine Arts Survey or any approved vocational course in the areas of Agriscience, Business Education, Family and Consumer Science, Health Occupations, Marketing Education, Technology Education, or Trade and Industrial Education; (or substitute two units of performance courses in music, dance and/or theater; or two units of studio art or two units of visual art courses; or one elective from among the other subjects listed in this core curriculum)
2	In the same Foreign Language. (one unit for students graduating from high school during the 1996-97 and 1997-98 school years.) or Technical Writing, Speech I or Speech II (two units).
½	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

b. for students in graduating classes prior to 2001, core units may be waived upon sworn affidavit by the principal or headmaster or authorized designee that the course was not available to the student at the school attended;

7. at the time of high school graduation, have taken the American College Test (ACT) and received composite test score, or an equivalent concordant value on the Scholastic Aptitude Test (SAT), of at least:

a. if qualifying under §703.A.5.a, the state's reported prior year average ACT composite score, rounded, but never less than 19;

b. if qualifying under §703.A.5.b or c, the state's reported prior year average ACT composite score, rounded, plus 3 points, but never less than 22; and

8. if qualifying under §703.A.5.a, have attained a cumulative high school grade point average, based on a 4.00 maximum scale, for all courses attempted and recorded on the high school transcript of at least 2.50; and

9. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

10. not have a criminal conviction, except for misdemeanor traffic violations, and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

11. agree that awards will be used exclusively for educational expenses.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

§805. Maintaining Eligibility

A. To continue receiving the TOPS-TECH Award, the recipient must meet all of the following criteria:

1. have received the TECH Award for less than two years; and

2. annually, submit the Free Application for Federal Student Aid (FAFSA) or renewal FAFSA by the applicable state aid deadline defined in §501; and

3. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

4. not have a criminal conviction, except for misdemeanor traffic violations and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

5. agree that awards will be used exclusively for educational expenses; and

6. enroll continuously as a full-time student and accept the TECH Award at an eligible postsecondary institution defined in §1901, unless granted an exception for cause by LASFAC; and

7. earn at least 24 college credit hours during the fall and spring semesters or fall, winter and spring quarters, or complete an average of 30 clock hours per week, as evaluated at the conclusion of the spring term. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; and

8. not be placed on academic probation by the postsecondary institution attended the previous term or semester; and

9. maintain, by the end of each academic year (the conclusion of the spring term), a cumulative college grade point average of at least 2.50 on a 4.00 maximum scale.

B. Students failing to meet the requirements listed in

§805.A.8 and 9 may have their tuition awards reinstated upon the lifting of academic probation and/or attainment of the required grade point average, if the period of ineligibility did not persist for more than one year from the date of loss of eligibility.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

Chapter 9. TOPS Teacher Award

§901. General Provisions

A. Legislative Authority. The TOPS Teacher Award Program was created by Act 476, of the 1997 Regular Session of the Louisiana Legislature and amended by Act 165 of the 1998 First Extraordinary Session of the Louisiana Legislature. This bill amended and reenacted R.S. 17:3042.1(A)(3) and (4), (B), (C), and (D) and 3042.2(A) and (B); reenacted R.S. 17:3042.1(A)(5) and (6) and 3042.8; and renamed Chapter 20-B of Title 17 of the Louisiana Revised Statutes of 1950.

B. Description, History and Purpose. The Tuition Opportunity Program for Students (TOPS) Teacher Award:

1. annually provides approximately 90 competitively awarded educational loans to residents of Louisiana who commit to teach at the elementary or secondary school level in Louisiana. When the recipient teaches at an approved school in Louisiana, the loans are forgiven in the ratio of one year of loan forgiveness for each year of teaching, or two years of loan forgiveness for each year of teaching in an elementary or secondary school which is located in an economically disadvantaged region of the state as determined by the Board of Elementary and Secondary Education (BESE);

2. was first funded for the 1997-98 award year;

3. was created to provide an incentive for Louisiana's best and brightest students to become tomorrow's classroom teachers and to provide an incentive that will attract highly qualified teachers in mathematics and chemistry at the elementary and secondary school levels.

C. Award Amounts

1. Loans are made in the amount of \$6,000 per award year for mathematics and chemistry majors.

2. Loans are made in the amount of \$4,000 per year for teacher education majors other than those listed in §901.C.1.

3. Recipient may receive a maximum of four years of funding.

4. Recipients receive one half of the annual award (\$3,000 or \$2,000, respectively) at the beginning of the fall and spring terms.

5. Recipients may, in conjunction with the Teachers Award, receive another TOPS Award.

6. In the event the student's total aid, including Vocational Rehabilitation Awards, exceeds the Cost of Attendance, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the TOPS-Teacher Award shall be reduced by the amount of any remaining over award.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR

24:637 (April 1998), amended LR 24:

§903. Establishing Eligibility

To establish eligibility the student applicant must meet all of the following criteria:

1. be a U.S. Citizen or National or eligible non-citizen, and be registered with the Selective Service, if required, unless the institutional Financial Aid Officer determines that failure to register was not wilful; and

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV for at least two years prior to July 1 of the Award Year; and

3. annually submit the completed Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is applicable to the student, by the state aid deadline defined in §503; and

4. either;

a. graduate from a Board of Elementary and Secondary Education (BESE)-approved, provisionally-approved, or probationally-approved public or nonpublic high school; and

i. at the time of high school graduation, have successfully completed 16.5 units of high school course work constituting a core curriculum as defined in §703.A.1.a of LAC 28:IV; and

ii. at the time of high school graduation, have attained a composite score on the American College Test (ACT) or the Scholastic Aptitude Test (SAT) which is, or is equivalent to, at least a 23 on the 1990 version of the ACT; and

iii. graduate with a cumulative high school grade point average of at least a 3.25, calculated on a 4.00 scale, for all courses attempted and reported on the high school transcript; or

b. if by the end of June in the year of application, the student will have completed 24 or more but less than 48 hours of graded college credit, have at least a 3.25 cumulative college grade point average on a 4.00 scale; or

c. if by the end of June in the year of application, the student will have completed 48 or more hours of graded college credit, have at least a 3.00 cumulative college grade point average on a 4.00 scale; or

d. have received a baccalaureate degree from an accredited college or university and have a cumulative undergraduate grade point average of at least 3.00 calculated on a 4.00 scale; or

e. have received at least a master's degree from an accredited college or university; and

5. complete and submit such documentary evidence as may be required by LASFAC by the deadline specified in §503; and

6. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

7. not have a criminal conviction, except for misdemeanor traffic violations; and

8. agree that the award will be used exclusively for educational expenses; and

9. enroll during the fall term at an eligible college or university, as defined in §1901, as a full-time student, as defined in §301, in a degree program or course of study leading to a degree in education or an alternative program leading to regular certification as a teacher at the elementary or secondary level in mathematics or chemistry.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:637 (April 1998), amended LR 24:

§905. Selection Criteria

Recipients are competitively selected for the award based upon the merit rank score computed and assigned to each eligible applicant. The formula for computing the merit rank score is defined in §301.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:

§907. Maintaining Eligibility

A. To continue receiving the TOPS Teacher Award, recipients must meet all of the following criteria:

1. have received less than four years or eight semesters of TOPS Teacher Awards ; and

2. at the close of each academic year (ending with the spring semester or quarter), have earned at least 24 hours total credit during the fall, winter and spring terms; and

3. achieve a cumulative GPA of at least a 3.00 calculated on a 4.00 scale at the end of each academic year; and

4. not be placed on academic probation as determined by the college or university attended; and

5. continue to enroll each subsequent semester or quarter as a full-time student, unless granted an exception for cause by LASFAC, in a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level; or

6. enter a program approved by the State Board of Elementary and Secondary Education (BESE) which leads to a degree in education or to regular certification as a teacher as soon as sufficient credits have been earned to do so; and

7. annually apply for federal and state student aid by completing the FAFSA or Renewal FAFSA, whichever is applicable to the student, by the state deadline; and

8. have no criminal convictions, except for misdemeanor traffic violations; and

9. be in compliance with the terms of all other federal and state aid programs which the student may be receiving and which are administered by LASFAC.

B. Recipients who do not maintain eligibility under the provisions of §907.A.3 or 4, may be reinstated upon attainment of the required GPA and/or academic standing and upon application for reinstatement addressed to LASFAC, provided the period of ineligibility did not exceed two years.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:

§909. Completion of Promissory Note and Acceptance of Award

Prior to receiving an award, the recipient must agree to the terms and conditions contained in the TOPS Teacher Award Program Promissory Note by completing the form and returning it to LASFAC by the specified deadline. The promissory note obligates the recipient to teach one year for each year of funding received; or, if teaching in a school located in an *economically disadvantaged region* of the state, as defined by the State Board of Elementary and Secondary Education (BESE), teach one year for every two years of funding received, or repay the funds received, plus accrued interest and any collection costs incurred.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:

§911. Discharge of Obligation

A. The loan may be discharged by teaching for the required period of obligation, by monetary repayment or by cancellation.

B. Discharging the loan by teaching fulfillment is accomplished by:

1. within two years of the date of certification as a teacher, perform service as a full-time classroom teacher in a Louisiana Board of Elementary and Secondary Education (BESE)-approved, provisionally-approved, or probationally-approved elementary or secondary school;

2. each year of full-time service as a teacher will fulfill an equivalent period of funding. However, if teaching in an economically disadvantaged region of the state, as defined by BESE, one year of teaching will fulfill two years of funding;

3. the first semester of full-time teaching will be applied toward of the earliest dated disbursement not previously paid under §911.C, the second semester the next earliest dated disbursement, and continuing until all disbursements have been fulfilled;

4. teaching to discharge the loan must be completed within six years from the date of certification as a teacher.

C. Discharging the loan by Monetary Repayment. Recipients who elect not to discharge the obligation by teaching and who are not eligible for discharge by cancellation must repay the loan principal plus accrued interest and any collection costs incurred according to the following terms and conditions:

1. interest will accrue on the outstanding principal at the

rate of 8 percent per annum;

2. interest on each disbursement will accrue from the date of disbursement until repaid, canceled or fulfilled. Accrued interest will be capitalized when the recipient enters repayment status;

3. repayment status. The recipient enters repayment status the first of the month following:

a. determination by LASFAC that the recipient cannot discharge the loan by teaching within the required time period;

b. the date the recipient notifies LASFAC by the recipient that monetary repayment is desired; or

c. six months after LASFAC determines that the recipient is no longer pursuing a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary school level;

4. the amount to be repaid annually will be the greater of:

a. the amount necessary to repay the capitalized loan principal within 10 years; or

b. \$1,200 per year or the unpaid balance, whichever is less;

5. recipients in repayment status may have their payments deferred in accordance with §2105.B., Deferment of Repayment Obligation;

6. during the period of time a recipient is in deferment status, a recipient is not required to make repayments and interest does not accrue;

7. the period of time for completion of repayment will be extended by a period of time equal to the length of time the recipient is in deferment status.

D. Cancellation. The obligation to repay any remaining unpaid balance of the TOPS Teacher Award shall be canceled in the event either of the following occurs:

1. upon submission to LASFAC of a sworn affidavit from a qualified physician that the recipient is precluded from gainful employment because of a complete and permanent medical disability or condition; or

2. upon submission to LASFAC of a death certificate or other evidence conclusive under state law, that the recipient is deceased.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:

Chapter 11. Rockefeller State Wildlife Scholarship

§1101. General Provisions

A. Legislative Authority. The Louisiana State Wildlife Scholarship Program was created and amended by the following Acts of the Louisiana Legislature:

1. Act 807 of the 1980 Regular Legislative Session;

2. Act 849 of the 1987 Regular Legislative Session;

3. Act 707 of the 1989 Regular Legislative Session.

B. Description, History and Purpose

1. The Rockefeller State Wildlife Scholarship Program was established in 1980 and is funded with dedicated

monies and offers competitively awarded scholarships valued at \$1,000 per academic year to both undergraduate and graduate students majoring in forestry, wildlife, or marine science as it pertains to wildlife;

2. In accepting the Rockefeller State Wildlife Scholarship, the student agrees to attain a degree in one of the required fields at a Louisiana public college or university offering such degrees. If the student fails to successfully complete an eligible course of study, as per the agreement made between LASFAC and the student, the funds must be repaid with interest.

C. Award Amounts

1. The annual award is \$1,000.

2. The cumulative maximum award is \$7,000 for up to five years of undergraduate and two years of graduate study.

3. The award is disbursed at the rate of \$500 each fall and spring term.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:639 (April 1998), amended LR 24:

§1103. Establishing Eligibility

To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen, and be registered with the Selective Service if required, unless the institutional Financial Aid Officer determines that failure to register was not wilful; and

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV for at least one year prior to July 1 of the Award Year; and

3. annually, submit the completed Free Application for Federal Student Aid (FAFSA) or the Renewal FAFSA, whichever is applicable to the student, by the state aid deadline defined in §503; and

4. complete and submit such documentary evidence as may be required by LASFAC; and

5. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

6. not have a criminal conviction, except for misdemeanor traffic violations; and

7. agree that award proceeds will be used exclusively for educational expenses; and

8. be enrolled or accepted for enrollment as a full-time undergraduate or graduate student at a Louisiana public college or university majoring in forestry, wildlife or marine science, with the intent of obtaining a degree from a Louisiana public college or university offering a degree in one of the three specified fields; and

9.a. must have graduated from high school, and if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, have earned a minimum cumulative high school grade point average of at least 2.50 calculated on a 4.00 scale for all courses completed in grades 9 through 12 and have taken the ACT or SAT and received test score results; or

b. if, at the time of application, the student applicant has earned 24 or more hours of college credit, then the applicant must have at least a 2.50 cumulative college grade

point average.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:639 (April 1998), amended LR 24:

§1105. Selection Criteria

Recipients are competitively selected for an award based upon the merit rank score computed and assigned to each eligible applicant. The formula for computing the merit rank score is defined in §301.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:640 (April 1998), amended LR 24:

§1107. Maintaining Eligibility

To continue receiving the Rockefeller State Wildlife Scholarship, recipients must meet all of the following criteria:

1. have received the scholarship for not more than seven academic years (five undergraduate and two graduate) ; and

2. at the close of each academic year (ending with the spring semester or quarter), have earned at least 24 hours total credit during the fall, winter and spring terms at an institution defining 12 semester or eight quarter hours as the minimum for full-time undergraduate status or earn at least 18 hours total graduate credit during the fall, winter and spring terms at an institution defining nine semester hours as the minimum for full-time graduate status unless granted an exception for cause by LASFAC; and

3. achieve a cumulative grade point average of at least 2.50 at the end of the first academic year and each academic year thereafter; and

4. continue to enroll each subsequent semester or quarter (excluding summer sessions and intersessions) at the same institution unless granted an exception for cause and/or approval for transfer of the award by LASFAC; and

5. continue to pursue a course of study leading to an undergraduate or graduate degree in wildlife, forestry or marine science.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:640 (April 1998), amended LR 24:

§1109. Completion of Promissory Note and Acceptance of Award

Prior to receiving an award, the recipient must agree to the terms and conditions contained in the Rockefeller State Wildlife Scholarship Program Promissory Note (LASFAC-Form RS02), by completing the form and returning it to LASFAC by the specified deadline. The promissory note obligates the recipient to obtain a Wildlife, Forestry or Marine Science degree or repay the scholarship funds received, plus accrued interest and any collection costs incurred.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:640 (April 1998), amended LR 24:

§1111. Discharge of Obligation

A. The loan obligation may be discharged by graduation in

an eligible major, monetary repayment or cancellation.

B. Graduation In an Eligible Major. Awards to undergraduates are discharged by the recipient's attainment of a bachelor's degree; graduate awards are discharged by attainment of a master's or doctorate degree in wildlife, forestry or marine science.

C. Monetary Repayment. Recipients who do not discharge the obligation by graduating in an eligible major and who are not eligible for discharge by cancellation must repay the loan principal, plus accrued interest and any collection costs incurred in accordance with the following terms and conditions:

1. interest accrues on the outstanding principal at the rate of 8 percent per annum;

2. interest on each disbursement accrues from the date of disbursement until repaid, canceled or fulfilled. Accrued interest will be capitalized when the recipient enters repayment status;

3. repayment status. The recipient enters repayment status the first day of the month following:

a. the date the recipient notifies LASFAC that monetary repayment is desired; or

b. six months after LASFAC determines that the recipient is no longer pursuing a degree program or course of study leading to a degree in wildlife, forestry or marine science;

4. the annual repayment amount will be the greater of:

a. the amount necessary to repay the capitalized loan principal within seven years; or

b. \$1,200 per year or the unpaid balance, whichever is less;

5. recipients in repayment status may have their payments deferred in accordance with §2105.B, titled Deferment of Repayment Obligation;

a. during the period of time a recipient is in deferment status, the recipient is not required to make payments and interest does not accrue;

b. the period of time for completion of repayment will be extended by a period of time equal to the length of time the recipient is in deferment status.

D. Cancellation. The obligation to repay all or part of Rockefeller State Wildlife Scholarship Program funds shall be canceled in the event either of the following occurs:

1. upon submission to LASFAC of a sworn affidavit from a qualified physician that the recipient is precluded from completing the educational program and/or from gainful employment because of a complete and permanent medical disability or condition;

2. upon submission to LASFAC of a death certificate, or other evidence conclusive under state law, that the recipient is deceased.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:640 (April 1998), amended LR 24:

Chapter 13. State Student Incentive Grant (SSIG)

§1301. General Provisions

A. Legislative Authority

1. Federal

a. Title IV of the Higher Education Act of 1965;

b. 34 CFR Part 692, as amended;

c. Title IV of the Higher Education Amendments of 1992 (Public Law 102-325).

2. State

a. R.S. 17:3032.5;

b. Act 632 of the 1974 Regular Legislative Session;

c. Act 228 of the 1977 Regular Legislative Session.

B. Description, History and Purpose. The Louisiana State Student Incentive Grant Program (SSIG), first funded in 1975, provides need-based grants to academically qualified students using federal and state funds. These grants are to be used for educational expenses including tuition and fees, books and supplies, and living expenses, such as room, board and transportation.

C. Louisiana administers a decentralized SSIG Program. Certain functions of the program are delegated to participating schools. Schools approved for participation in the Louisiana SSIG Program must have federal eligibility and must annually submit a state application and be approved for state participation. Funding available for a specific award year is allocated to eligible in-state postsecondary institutions who select and certify recipients to LASFAC. LASFAC forwards award funding to the institutions for disbursement to the student or student's account.

D. Award Amounts. Individual grants range from an annual minimum of \$200 to a maximum of \$2,000; however, the actual amount of each student's award is determined by the financial aid office at the institution and is governed by the number of recipients selected and the amount of funds available. Awards are based upon a full academic year, excluding summer sessions and intersession, beginning with the fall term and concluding with the spring term.

E. Allocation of Funds. Annually, funds are allocated to postsecondary institutions based on school type, the school's prior year first-time, full-time enrollment and the amount of the prior year's allocation that was expended. Initial funds, for first-time recipients, are computed as a percentage of all participating institutions first-time, full-time enrollment as of October 10 of the prior fiscal year. A student's enrollment in an undergraduate degree granting school which is a component of a state supported medical center, shall be a first-time, full-time freshman for the purpose of this program. Continuation funds for students who had previously received SSIG are computed as a percentage of the allocated funds used during the previous year. The continuation formula applies 60 percent for four year schools and 40 percent for two-year schools.

F. Reallocation of Funds. Uncommitted institutional allotted funds are reallocated if not committed by the deadline of November 1 for colleges and universities and January 1 for proprietary schools and campuses of Louisiana Technical College. The method of reallocation is dependent upon the

amount of funds available for reallocation. If the reallocation amount is less than \$50,000, then only two- and four-year colleges and universities, which have fully committed their original allotment by the appropriate deadline, receive a reallocation. If \$50,000 or more is available for reallocation, it is reallocated to eligible schools of all types, which have fully committed their original allotment by the appropriate deadline.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:641 (April 1998), amended LR 24:

§1303. Establishing Eligibility

SSIG applicants must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen, and registered with the Selective Service, if required; and
2. be a resident of Louisiana, as defined in §301 for at least one year prior to July 1 of the Award Year; and
3. annually, submit the completed Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is available to the applicant, by the state deadline defined in §503 and any deadline imposed by the institution attended; and
4. have a high school diploma with at least a 2.00 cumulative grade point average, or a minimum average score of 45 on the General Educational Development (GED) test, or an ACT composite score of at least 20, or a postsecondary grade point average of at least 2.00 from the most recent term; and
5. be selected and certified by the school for receipt of an SSIG award, contingent upon final approval by LASFAC; and
6. meet any additional selection criteria established by the individual institution participating in the SSIG Program; and
7. be certified as a full-time undergraduate student in an eligible program at an eligible postsecondary institution, as defined in §1901; and either:
 - a. be enrolled full time at the time of disbursement if disbursement occurs on or prior to the fourteenth class day (ninth class day for Louisiana Tech); or
 - b. be enrolled full time as of the fourteenth class day (ninth class day at Louisiana Tech) and is enrolled at least half-time at the time of disbursement if disbursement occurs after the fourteenth class day (ninth class day at Louisiana Tech); and
8. have substantial financial need, as defined in §301; and
9. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and
10. not have a criminal conviction, except for misdemeanor traffic violations; and
11. agree that the award proceeds will be used exclusively for educational expenses; and
12. not be in default of an educational loan.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:641 (April 1998), amended LR 24:

§1305. Maintaining Eligibility

To continue receiving an SSIG Award, the recipient must meet all of the following criteria:

1. meet all of the initial eligibility criteria listed in §1303; and
2. maintain a cumulative postsecondary grade point average of at least 2.00 calculated on a 4.00 scale by the conclusion of the spring term.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:642 (April 1998), amended LR 24:

Chapter 15. T. H. Harris Scholarship

§1501. General Provisions

A. Legislative Authority

1. R.S. 17:3036.1;
2. Act 24 of the 1938 Regular Legislative Session;
3. Act 199 of the 1940 Regular Legislative Session;
4. Act 19 of the 1942 Regular Legislative Session;
5. Act 499 of the 1948 Regular Legislative Session;
6. Act 83 of the 1977 Regular Legislative Session;
7. Act 710 of the 1985 Regular Legislative Session;
8. Act 663 of the 1990 Regular Legislative Session.

B. Description, History and Purpose. The T.H. Harris Scholarship Program was first funded with state general funds in 1942 for the purpose of granting scholarships to deserving youth enrolling at state-supported colleges or universities. A maximum cumulative award, assuming the recipient maintains eligibility, is \$2,000 for five years of study. Effective with award year 1996-97, applications are not being accepted and the program is being phased out. Students awarded during the 1995-96 award year, continue to receive an award, as long as funds are available and they maintain continuing academic eligibility.

C. Award Amounts. The annual award is \$400, with a cumulative maximum award of \$2,000 for five years. Recipients receive \$200 each fall and spring term, less a \$5 award fee.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:642 (April 1998), amended LR 24:

§1503. Maintaining Eligibility

To continue to receive T.H. Harris Scholarship funds, recipients must meet all of the following criteria:

1. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and
2. agree that award proceeds will be used exclusively for educational expenses; and
3. continue to enroll as a full-time undergraduate student in a two- or four-year public college or university, unless granted an exception for cause by LASFAC; and
4. successfully complete the minimum number of hours required for a full-time student as defined in §301; and
5. achieve a cumulative grade point average of at least 3.00, on a 4.00 scale, at the conclusion of the spring term each

academic year; and

6. have received less than 10 semesters of T.H. Harris funding.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:642 (April 1998), amended LR 24:

Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools

§1701. Eligibility of Graduates Based Upon the High School Attended

A. Graduates of the following high schools are eligible to participate in LASFAC's Scholarship and Grant programs, as authorized herein:

1. Louisiana Public High Schools—public high schools listed in the *Louisiana School Directory* (Louisiana Department of Education Bulletin 1462);

2. approved Nonpublic High Schools—nonpublic high schools approved by the Louisiana Board of Elementary and Secondary Education (BESE) and listed in the *Louisiana School Directory* (Bulletin 1462), as an approved nonpublic school which meets the standards specified in *The Louisiana Handbook for School Administrators* (Bulletin 741). For the purposes of LAC 28:IV, approved nonpublic schools include private or diocesan high schools classified annually by the Department of Education as approved, provisionally-approved or probationally-approved;

3. eligible Non-Louisiana High Schools—eligible non-Louisiana high schools are high schools which meet all of the following:

a. are in a state adjoining the state of Louisiana; and
b. have provided LASFAC with acceptable evidence of an agreement dated prior to June 5, 1994, between a parish school system in the state of Louisiana and the high school's local governing authority, which authorizes the attendance of students who are residents of Louisiana; and

c. have students who graduate during the academic year preceding the award year, who were residents of Louisiana and who were funded through the Louisiana minimum foundation program; and

d. have certified the academic performance of Louisiana graduates, in accordance with §1703;

4. Out-of-State High Schools—all other public or non-public high schools located in one of the United States other than Louisiana, which have been approved by the state's chief state or territorial school officer listed in the Louisiana Department of Education Bulletin 1462, or by the public body which is that state's equivalent of Louisiana's Board of Elementary and Secondary Education, and those high schools located in foreign countries which have been authorized or approved by a Department in the Executive Branch of the United States government to teach the dependents of members of the U.S. Armed Forces stationed abroad;

a. graduates of out-of-state high schools are eligible to participate in the Rockefeller State Wildlife Scholarship and the State Student Incentive Grant Programs;

b. graduates of out-of-state high schools who are

Louisiana residents or the dependents of a Louisiana resident serving on active duty with the Armed Forces or who have a parent who is a Louisiana resident are eligible to participate in TOPS.

B. Non-high school graduates who have earned a General Education Diploma (GED) in lieu of a high school diploma are eligible to participate in the State Student Incentive Grant Program and if they have completed a BESE approved home study program, are eligible to participate in TOPS.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:642 (April 1998), amended LR 24:

§1703. High School's Certification of Student Achievement

A. Responsibility for Reporting and Certifying Student Performance

1. Responsibility for the identification and certification of high school graduates who meet the academic qualifications for a TOPS award is as follows:

a. the principal or the principal's designee for public high schools;

b. the principal or headmaster or designee of each nonpublic high school approved by the State Board of Elementary and Secondary Education (BESE);

c. the principal or headmaster or designee of an eligible non-Louisiana high school;

d. the principal or headmaster or designee of an out-of-state high school is responsible only for providing the high school transcript or the date of graduation for those students who have applied for a student aid program administered by LASFAC.

2. The Louisiana Department of Education shall report to LASFAC the names of students who are enrolled in and have completed all mandatory requirements through the twelfth grade level of a state-approved home study program. B.

Procedures for Reporting and Certifying Student Performance

1. The responsible high school authority shall record student performance on the form provided by LASFAC or in an electronic format pre-approved by LASFAC. The certification form shall be completed, certified and returned to LASFAC by the deadline specified on the form.

2. The certification form shall contain, but is not limited to, the following reportable data elements:

a. student's name, address, phone number and social security number;

b. month and year of high school graduation;

c. final cumulative high school grade point average for all courses attempted and recorded on the transcript, converted to a maximum 4.00 scale, if applicable;

d. number of core units earned and the number of core units unavailable to the student at the school attended;

e. total number of graduates in the graduating class and the names of those students who graduated in the top 5 percent of the class in accordance with §1703.B.4.a.

3. The responsible high school authority shall certify to LASFAC the final cumulative high school grade point average of each applicant and that average shall be inclusive of grades for all courses attempted and recorded on the applicant's official high school transcript and shall be computed and

reported on a maximum 4.00 grading scale.

a. The following grading conversion shall be used to report the applicant's cumulative high school grade point average:

- i. letter grade A = 4 quality points;
- ii. letter grade B = 3 quality points;
- iii. letter grade C = 2 quality points;
- iv. letter grade D = 1 quality point.

b. Schools which award more than 4 quality points for a course must convert the course grade to a maximum 4.00 scale using the formula described in the example that follows. [In this example, the school awards one extra quality point for an honors course.]

i. Example: an applicant earned a C in an Honors English IV course and received 3 out of the 5 possible quality points that could have been awarded for the course.

ii. In converting this course grade to a standard 4.00 maximum scale, the following formula must be used:

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

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

By cross multiplying,

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

iii. In this example, the quality points for this Honors English IV course should be recorded as 2.40 when the school calculates and reports the student's cumulative high school grade point average.

4. Determine the number of 1998 graduates who are in the top 5 percent of their high school graduating class using the procedures previously adopted for the former Honors Scholarship Program and which comply with the following:

a. city and parish school boards, nonpublic high schools, special school governing boards, and LASFAC on behalf of eligible non-Louisiana high schools, shall adopt, publish and forward to LASFAC criteria for ranking graduates and determining the top 5 percent of the graduating class for high schools under their jurisdiction. Such criteria shall:

i. consider only the academic grades for those courses recorded on the student's official high school transcript; and

ii. define the academic courses which are to be considered in determining academic class ranking; and

iii. define the procedure by which students who would otherwise have equal academic class ranking may be ranked (tie-breaker procedure). This may include an evaluation of students' academic grades on a set of predetermined core academic courses such as English, math and science or an evaluation of the level of difficulty of the courses taken by the students, such as honors courses and higher level math or science courses; and

iv. be adopted by an affirmative act taken during a public meeting;

b. using the following formula, determine the number of graduates in the top 5 percent:

i. in computing the top 5 percent of each Louisiana high school's graduating class, apply the following formula to compute the maximum number of graduates who may rank in the top 5 percent for the purposes of the performance award:

(a). the total number of students who are Louisiana residents receiving high school diplomas from the institution during the academic year preceding the award year, multiplied by the figure 0.05, and, if not a whole number, rounded up to the next whole number. Foreign exchange students and other nonresidents shall not be counted as members of the graduating class for the purpose of this computation.

(b). Example: for a high school that awarded state high school diplomas to two summer graduates, seven midyear graduates and 79 spring graduates during the academic year, the following computation would apply:

$$(2\% \cdot 79) + 88; (88 \times 0.05) = 4.4;$$

4.4 rounds up to 5.0

(c). accordingly, five students may be selected for the performance award at the high school depicted in the example;

ii. in computing the top 5 percent of each eligible non-Louisiana high school's graduating class and calculating the number of Louisiana residents to be named as performance award recipients, apply the following formulas:

(a). the total number of students, both Louisiana residents and non-Louisiana residents, receiving a high school diploma from the institution during the academic year preceding the award year, multiplied by the figure 0.05, and, if not a whole number, rounded up to the next whole number. Example:

$$\text{Total Graduates} = 69; (69 \times 0.05) = 3.45;$$

rounds up to 4.0

(b). the number of academic year graduates who are Louisiana residents funded through the Louisiana minimum foundation program (MFP), multiplied by the figure 0.05, and, if not a whole number, rounded up to the next whole number. (Louisiana resident graduates not funded through MFP shall not be counted in this calculation). Example:

$$\text{MFP Graduates} = 23; (23 \times 0.05) = 1.15$$

rounds up to 2.0

(c). to be certified as a performance award recipient, the student must rank both in the top 5 percent of the non-Louisiana high school's total academic year graduating class, as well as in the top 5 percent of minimum foundation program-funded Louisiana residents in the graduating class;

(d). in the examples provided above, the maximum number of Louisiana residents to be certified for the performance award is two, and the minimum number is zero. If only one Louisiana resident ranked in the top 5 percent (4 of 69) of the total graduates, then only one student could be certified to the performance award. Conversely, if three Louisiana residents ranked in the top 5 percent (4 of 69), only the top two of these three could be certified.

c. ensure that the approved selection criteria are publicly posted in each high school under the board or headmaster's jurisdiction and provide a copy of the criteria to LASFAC;

d. ensure that amendments to the criteria, as approved by the board or headmaster, shall only be effective for the years following the year in which amended.

C. Certifying 1998 Graduates for the TOPS Performance Award. 1998 Graduates who are ranked in the top 5 percent of

their graduating class in accordance with §1703 shall be credited with having completed the core curriculum for purposes of the TOPS; however, only those meeting the following criteria shall be eligible for the Performance Award:

1. those students who have attained a final cumulative high school grade point average of at least a 3.50 on a 4.00 maximum scale; and

2. an ACT score of at least 23.

D. Certification by Sworn Affidavit. The high school headmaster or principal or designee shall certify by sworn affidavit that:

1. all data supplied on the certification form are true and correct, to the best of his knowledge or belief, and that they reflect the official records of the school for the students listed; and

2. records pertaining to the listed students will be maintained and available upon request to LASFAC and the legislative auditor for a minimum of three years or until audited, whichever occurs first; and

3. the school under the principal's jurisdiction shall reimburse LASFAC for the amount of a program award which was disbursed on behalf of a graduate of the school, when it is subsequently determined by audit that the school incorrectly certified the graduate.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:643 (April 1998), amended LR 24:

§1705. Notification of Certified Students

A. High schools are required to present a certificate of achievement during the graduation ceremony or other school reception to students qualifying as recipients of TOPS Performance and Honors Awards.

B. High schools are required to invite members of the Louisiana Legislature representing the school's district to attend the ceremony or reception and to make the presentation awarding the endorsed certificates of achievement.

C. If the certifying authority elects to notify students of their certification, then the following disclaimer shall be included in any communication to the student:

"Although you have been certified as academically eligible for a Tuition Opportunity Program for Students (TOPS) Award, you must satisfy all of the following conditions to redeem a scholarship under this program:

1. You must be a Louisiana resident as defined by the Louisiana Student Financial Assistance Commission; and

2. You must be accepted for enrollment by an eligible Louisiana college and be registered as a full-time undergraduate student; and

3. You must annually apply for federal student aid by the deadline required for consideration for state aid; and

4. You must have met all academic and nonacademic requirements and be officially notified of your award by the Louisiana Student Financial Assistance Commission (LASFAC)."

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:644 (April 1998), amended LR 24:

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1901. Eligibility of Postsecondary Institutions to Participate

A. Undergraduate degree granting schools which are components of Louisiana public university medical centers and two- and four-year public colleges and universities are authorized to participate in the Tuition Opportunity Program for Students (TOPS), Rockefeller State Wildlife Scholarship, State Student Incentive Grant (SSIG) and the T.H. Harris Scholarship.

B. Regionally accredited private colleges and universities which are members of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU) are authorized to participate in TOPS and SSIG. As of November 1997, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, Our Lady of the Lake College of Nursing and Allied Health, Our Lady of Holy Cross College, Tulane University and Xavier University.

C. Campuses of Louisiana Technical College are authorized to participate in TOPS-TECH and SSIG.

D. Approved Louisiana proprietary and beauty schools are authorized to participate in SSIG only.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:645 (April 1998), amended LR 24:

§1903. Responsibilities of Postsecondary Institutions

A. Certification of Student Data. Upon request by LASFAC, and for the purpose of determining an applicant's eligibility for a program award, an institution will report the following student data:

1. admission and full-time undergraduate enrollment; and

2. eligibility for, or enrollment in, a course of study leading to initial teacher certification; and

3. enrollment in math or chemistry as a major while pursuing teacher certification; and

4. graduate or undergraduate enrollment in wildlife forestry or marine science; and

5. cumulative college grade point average; and

6. cumulative college credit hours earned;

7. academic year hours earned.

B. Program Billing. Each term, institutions shall bill LASFAC for students who are recipients of a TOPS Award and who have enrolled at the institution in accordance with the following terms and conditions:

1. institutions may only bill for students who have been certified by LASFAC as eligible for a TOPS award; and

2. institutions will bill LASFAC based on their certification that the recipient of a TOPS Award is enrolled full time, as defined in §301, as of the fourteenth class day (ninth class day for Louisiana Tech, first class day for campuses of Louisiana Technical College, and for any qualifying summer sessions as of the last day to drop and receive a full refund for the full summer session). Institutions shall not bill for students who are enrolled less than full time on the fourteenth class day (ninth class day for Louisiana Tech, first class day for campuses of Louisiana Technical College, and for any qualifying summer sessions as of the last day to drop and receive a full refund for the summer session), unless the student qualifies for payment for less than full-time enrollment as defined in §2103.B. Students failing to meet the full-time enrollment requirement are responsible for reimbursing the institution for any awards received. Refunds of awards to students who are not receiving federal Title IV aid, for less than full-time enrollment after the fourteenth class day, shall be returned to the state. Refunds to students who are receiving federal Title IV aid shall be refunded to the state in accordance with the institution's federal Title IV aid refund procedures; and

3. in the event the student's total aid, including Vocational Rehabilitation Awards, exceeds the Cost of Attendance, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the TOPS award shall be reduced by the amount of any remaining over award;

4. annually, two- and four-year institutions are required to provide LASFAC a current fee schedule. The schedule must include an itemized description of the composition of the mandatory fees listed on the fee schedule;

5. campuses of Louisiana Technical College are exempt from furnishing a schedule of fees, but must bill LASFAC on the first class day of each quarter for three times the monthly amount established by the Board of Elementary and Secondary Education (BESE) for full-time attendance; and

6. certify that the institution will reimburse LASFAC for any award funds incorrectly disbursed to ineligible students; and

7. upon the school's certification that a recipient of a TOPS Award is enrolled full time, institutions shall bill for and LASFAC will reimburse the institution for each such recipient as follows:

a. public two- and four-year colleges and universities may bill for an amount up to the maximum tuition for that institution, as defined in §301;

b. Louisiana Technical College campuses may bill each quarter for three times the monthly amount established by the Board of Elementary and Secondary Education (BESE) for full-time attendance;

c. LAICU member colleges and universities may bill for an amount up to the weighed average tuition, as defined in §301;

d. for recipients of the Performance and Honors awards, institutions may bill LASFAC for the stipend that accompanies these awards, in the amounts of \$200 or \$400 per semester, respectively;

certification as a teacher at the elementary or secondary level;

C. Annual Application for Participation in, and Certification of Recipients of the SSIG Program

1. Annually, LASFAC forwards SSIG institutional participation agreements to those schools participating in the program during the prior award year, and upon written requests received, to schools not participating in the SSIG Program during the prior award year. To be eligible for allotment of SSIG funds the institution must meet all of the following requirements:

a. complete and return the annual SSIG application by the specified deadline; and

b. certify that students and parents will not be charged a fee for the collection of information used to determine the student's eligibility for SSIG; and

c. certify that students listed on the recipient roster meet federal, state and institutional specific SSIG eligibility criteria; and

d. certify that if the institution's SSIG allotment is based in part on the financial need of independent students, as defined by the U.S. Department of Education, a reasonable portion of the institution's allotment is being made available to independent students; and

e. certify that each SSIG recipient's total package of aid does not exceed the student's financial need; and

f. certify that SSIG funds recovered from over awards, refunds, and/or repayments, as defined in §301, during the applicable award period shall be returned to LASFAC to be reissued to other qualified students. Funds recovered from over awards, refunds and/or repayments after the applicable award period shall be returned to LASFAC for return to the U.S. Department of Education and/or the state of Louisiana. The amount of over award, refund and/or repayment shall be determined according to the school's policy established in accordance with federal regulations.

2. Annually, LASFAC provides eligible institutions an official allotment schedule, recipient roster and institution certification forms. Institutions are required to:

a. complete and return recipient rosters and institutional certification forms to ensure expenditure of allotted SSIG awards by the school specific deadlines of November 1 for public and LAICU member two- and four-year colleges and universities and January 1 for campuses of Louisiana Technical College and proprietary institutions; and

b. submit changes to the recipient roster by completing a replacement roster, provided by LASFAC; and

c. certify that if any SSIG funds are released in error to ineligible students, the institution will either recover the award amount from the students and refund to LASFAC or remit the refund due.

D. Disbursement of Funds. Upon receipt of award funds and prior to their disbursement to students, the institution shall:

1. for TOPS Teacher Award recipients:

a. verify that the recipient is enrolled full time in an approved degree program or course of study leading to a degree in education or alternative program leading to regular

or

b. if designated as a math or chemistry major, verify enrollment in a course of study leading to certification as a math or chemistry teacher;

2. for Rockefeller State Wildlife Scholarship recipients, verify undergraduate or graduate enrollment, whichever is applicable to the student, in:

a. Wildlife, Forestry or Marine Science; or,

b. another major specified by the Louisiana Department of Wildlife and Fisheries as meeting their criteria for receipt of scholarship funds;

3. release award funds by crediting the student's account within 14 days of the institution's receipt of funds or disbursing individual award checks to recipients as instructed by LASFAC. Individual award checks for the T.H. Harris Scholarship, Rockefeller State Wildlife Scholarship, TOPS Teacher Award and SSIG must be released to eligible recipients within 30 days of receipt by the school or be returned to LASFAC.

E. Reporting of Academic Data. At the conclusion of each academic year, the institution will complete and return to LASFAC, a College Academic Grade Report including, but not limited to, the following data elements:

1. academic year hours earned; and
2. cumulative hours earned; and
3. cumulative grade point average;
4. academic standing, and if applicable, date of placement on academic probation; and
5. upon graduation, degree date and type and name of degree.

F. Records Retention. Records pertaining to the students listed on the billing certification form will be subject to audit as required by state statute. Such records will be maintained for a minimum of three years and be available upon request to LASFAC and the Louisiana legislative auditor.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:645 (April 1998), amended LR 24:

Chapter 21. Miscellaneous Provisions and Exceptions

§2101. Academic Suspension of Awards and

Reinstatement

A. Students denied an award for their failure to maintain the required cumulative college grade point average and academic good standing may be reinstated upon attainment of the required cumulative grade point average and the lifting of academic probation provided that the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

B. Students whose TOPS Performance and Honors Awards are reinstated are ineligible for annual stipends.

C. Transfer of Students on Academic Probation

1. Students who transfer while on academic probation are ineligible for a prior award for a minimum of one semester at the latest institution attended, regardless of the student's status at that institution; and

2. shall remain ineligible until achieving a cumulative grade point average necessary to return to academic good standing at the institution that originally placed the student on academic probation.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:646 (April 1998), amended LR 24:

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

A. Initial Enrollment Requirement. Initially apply and enroll as a *First-Time Freshman* as defined in §301, unless granted an exception for cause by LASFAC, in an eligible postsecondary institution defined in §1901. Initial enrollment requirements specific to the TOPS are defined in §703A.4.

B. Continuous Enrollment Requirement. To maintain eligibility, all scholarship programs require recipients to continue to enroll as full-time students, as defined in §301, each consecutive semester or quarter, excluding summer sessions and intersession, at two- and four-year colleges and universities. Recipients who cannot meet this requirement may be granted an exception for cause, as determined by LASFAC.

C. Less Than Full-Time Attendance. The LASFAC will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards and the T.H. Harris Scholarship Program for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

1. requires less than full-time enrollment to complete the undergraduate degree; or
2. is enrolled in a degree program that defines *full-time* as less than 12 hours per semester or eight hours per quarter; or
3. requires less than full-time enrollment to complete requirements for a specified course of study or clinical program.

D. Procedure for Requesting Exceptions to the Initial and Continuous Enrollment Requirement

1. Recipient must submit the exception request form, with documentary evidence, within the deadline specified.

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

3. If determined ineligible for an exception, subsequent appeals are to be processed in accordance with LASFAC's appeal procedures as defined in §2109.

E. Qualifying Exceptions to the Initial and Continuous Enrollment Requirement

1. Parental Leave

a. Definition. The student/recipient must be pregnant or caring for a newborn or newly-adopted child less than one year of age.

b. Certification Requirements. A completed exception request form, certified by a written statement from a doctor of medicine who is legally authorized to practice or an authorized official of the adoption agency.

c. **Acceptable Documentation.** Includes dates of required leave of absence, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, the required treatment.

d. **Filing Requirements.** The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days after the occurrence of the qualifying exception.

e. **Maximum Length of Exception.** Up to one academic year per child.

2. Rehabilitation Program

a. **Definition.** The student/recipient must be receiving rehabilitation in a program administered by a licensed rehabilitation center under a written individualized plan with specific dates of beginning and ending services.

b. **Certification Requirements.** A completed exception request form, certified by a rehabilitation counselor and doctor of medicine.

c. **Acceptable Documentation.** Includes dates of the required leave of absence, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, the required treatment.

d. **Filing Requirements.** The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days after occurrence of the qualifying exception.

e. **Maximum Length of Exception.** Up to two academic years per occurrence.

3. Temporary Disability

a. **Definition.** The student/recipient must be recovering from an accident, injury, illness or required surgery that did not previously exist when he or she originally applied for the applicable scholarship and grant program(s), or his or her pre-existing condition has substantially deteriorated since the time of application, or the student/recipient's spouse, dependent, parent or guardian requires continuous care for similar conditions for at least 60 days due to an accident, illness, injury or required surgery.

b. **Certification Requirements.** Certified by a doctor of medicine who is legally authorized to practice and by a completed exception request form.

c. **Acceptable Documentation.** Includes dates of the required leave of absence, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, the required treatment.

d. **Filing Requirements.** The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days after occurrence of the qualifying exception.

e. **Maximum Length of Exception.** Up to two academic years for recipient; up to a maximum of one academic year for care of a disabled dependent, spouse or parent.

4. Internship/Residency Program

a. **Definition.** The student/recipient must be enrolled in a required program that must be completed in order to begin professional practice or service. It must be a program where

the student is working toward an appropriate scholarship and grant program degree. Participation in an Internship/Residency Program does not qualify as an exception to the initial enrollment requirement.

b. **Certification Requirements.** Certified by a written statement from an internship or residency program official and a completed exception request form.

c. **Acceptable Documentation.** Includes dates of required leave of absence from the school's dean, academic counselor, or major professor stating that the residency/internship is a requirement toward fulfilling an appropriate scholarship and grant program degree, and that the student has been accepted into the residency/internship program, the semester(s) or number of days involved, the length of the internship/residency period, the beginning and ending dates of the leave of absence.

d. **Filing Requirements.** The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days of notification of acceptance into the internship.

e. **Maximum Length of Exception.** Up to two academic years of required program or study.

5. Cooperative Work/Study Program

a. **Definition.** The student/recipient must be a registered student in the appropriate school offering the cooperative work/study program. Even though the school may have entrance requirements for the cooperative work/study programs, the student/recipient must continue to meet and maintain scholarship and grant program cumulative grade point average requirements. Participation in a Cooperative Work/Study Program does not qualify as an exception to the initial enrollment requirement.

b. **Certification Requirements.** Certified by a written statement from the college/school official including dates of enrollment and termination and a completed exception request form.

c. **Acceptable Documentation.** Includes dates of leave of absence from the school's dean, academic counselor, or major professor stating that the student is enrolled in an official cooperative work/study program sponsored by the university, the semester(s) or number of days involved, the beginning and ending dates of the cooperative work/study program.

d. **Filing Requirements.** The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days of acceptance into the cooperative work/study program.

e. **Maximum Length of Exception.** Up to one academic year or required program of study.

6. Religious Commitment

a. **Definition.** The student/recipient must be a member of a religious group that requires the student to perform certain activities or obligations which necessitate taking a leave of absence from school.

b. **Certification Requirements.** Certified by a written statement from the college official, a completed exception request form, and a statement from the religious group's governing official.

c. **Acceptable Documentation.** Includes dates of the required leave of absence from the religious group's governing official, a completed exception request form, the necessity of

withdrawing, dropping hours, etc., the semester(s) or number of days involved, the length of the religious obligation.

d. Filing Requirements. The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days after accepting or committing to the religious obligation.

e. Maximum Length of Exception. Up to two academic years.

7. Death of Immediate Family Member

a. Definition. The student cannot attend school for at least 30 days due to recovering from the death of a spouse, parent, guardian, dependent, sister or brother or grandparent.

b. Certification Requirements. A written statement from the college official, a completed exception request form, and a copy of the death certificate or a doctor's or funeral director's verifying statement or a copy of the obituary published in the local newspaper.

c. Acceptable Documentation. Includes dates of leave of absence from the school's registrar, a doctor's statement if student/recipient care was needed, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved.

d. Filing Requirements. The student/recipient must file a completed exception request form with certification and documentation requirements within 60 days of the date of death.

e. Maximum Length of Exception. Up to one academic semester or two quarters per death.

8. Military Service, Peace Corps, National Service Corps, VISTA. Service in the Peace Corps, National Service Corps and VISTA does not qualify as an exception to initial enrollment requirement.

a. Definition. The student/recipient is called on active duty status with the United States Armed Forces or is performing emergency state service with the National Guard or is serving in the Peace Corps, National Service Corps or VISTA.

b. Certification Requirements. Certified by a written statement from the commanding officer or regional supervisor or certified military orders and by a completed exception request form.

c. Acceptable Documentation. Includes dates of required leave of absence, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, the length of duty (beginning and ending dates).

d. Filing Requirements. The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days after receipt of military orders or letter of appointment.

e. Maximum Length of Exception. Up to the length of the required service period.

9. Exceptional Circumstances

a. Definition. The student/recipient has exceptional circumstances, other than those listed in §2103.E.1-8, which are beyond his immediate control and which necessitates full or partial withdrawal from, or non-enrollment in, an eligible postsecondary institution.

b. Certification Requirement. Certified by a notarized statement and by a completed exception request form.

c. Acceptable Documentation. The notarized

statement should include attachments of copies of all documents relevant to the exceptional circumstance.

d. Filing Requirement. The student/recipient must file a completed exception request form, with the required notarized statement and documentation, within 60 days after the occurrence of the exceptional circumstance.

e. Maximum Length of Exception. Up to one academic year.

E. Nonqualifying Exceptions. Nonqualifying Exceptions include, but are not limited to:

1. the student is unaware of the continuation renewal requirements for a program and fails to meet such requirements;

2. the student failed to timely submit an exception request form for an exception to the continuous enrollment requirement.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:647 (April 1998), amended LR 24:

§2105. Repayment Obligation, Deferment and Cancellation

A. Monetary Repayment. Recipients of the Rockefeller State Wildlife Scholarship who do not meet their obligation to obtain a degree in wildlife, forestry or marine science and recipients of the TOPS Teacher Award who do not fulfill their obligation to teach the required number of years and who are not eligible for Discharge by Cancellation, must repay the loan principal plus accrued interest as delineated in §§1111 and 911, respectively.

B. Deferment of Repayment Obligation. Recipients of the Rockefeller State Wildlife Scholarship or TOPS Teacher Award who are in repayment status may have their payments deferred for the following reasons.

1. Parental Leave

a. Definition. The student/recipient must be pregnant or caring for a newborn or newly-adopted child.

b. Certification Requirements. Certification by a written statement from a doctor of medicine who is legally authorized to practice or an authorized official of the adoption agency.

c. Acceptable Documentation. Includes dates of required leave of absence, the number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, and the required treatment.

d. Filing Requirements. The recipient must request by letter, with the required certification and documentation, within 60 days after the occurrence of the qualifying event.

e. Maximum Length of Deferment. Up to one academic year.

2. Rehabilitation Program

a. Definition. The recipient must be receiving rehabilitation in a program administered by a licensed rehabilitation center under a written individualized plan with specific dates of beginning and ending services.

b. Certification Requirements. Certification by a rehabilitation counselor or doctor of medicine.

c. Acceptable Documentation. Includes dates of the required leave of absence, the semester(s) or number of days involved, the length of the recovery period, the beginning and

ending dates of the doctor's care, the required treatment.

d. Filing Requirements. The recipient must file a written request, with the required certification and documentation, within 60 days after occurrence of the qualifying treatment.

e. Maximum Length of Deferment. Up to two academic years.

3. Temporary Disability of Recipient, Child, Parent, Spouse, or Guardian

a. Definition. Temporary total disability of recipient or recipient's dependent, parent, guardian or spouse of whom recipient is primary care-giver.

b. Certification Requirements. Certification by a qualified physician.

c. Acceptable Documentation. Includes dates of the required leave, the length of the recovery or disability period, the beginning and ending dates of the doctor's care, the required treatment.

d. Filing Requirements. The recipient must file a written request with the required certification and documentation no earlier than 30 days but within 60 days after the occurrence of disability.

e. Maximum Length of Deferment. A deferment under §2105.B.3 for Temporary Disability of the Maker shall not exceed 36 months. A deferment under §2105.B.3 for Temporary Disability of any other person shall not exceed 12 months.

4. Military Service, Peace Corps, National Service Corps, VISTA

a. Definition. The recipient is called on active duty status with the United States Armed Forces or is performing emergency state service with the National Guard or is serving in the Peace Corps, National Service Corps or VISTA.

b. Certification Requirements. Certified by a written statement from the commanding officer or regional supervisor or certified military orders.

c. Acceptable Documentation. Includes dates of required leave of absence, the semester(s) or number of days involved, the length of duty (beginning and ending dates).

d. Filing Requirements. The student/recipient must file a written request with the required certification and documentation, within 60 days after receipt of military orders or letter of appointment.

e. Maximum Length of Deferment. Up to the length of the required service period.

5. Recipient is engaging in a full-time course of study at an institution of higher education at the baccalaureate level or higher. A deferment under §2105.B.5 shall not exceed 36 months; or

6. Recipient is:

a. seeking and unable to find full-time employment for a single period not to exceed 12 months; or

b. seeking and unable to find full-time teaching employment at a qualifying Louisiana school for a period of time not to exceed 27 months.

C. Cancellation of Repayment Obligation. Upon submission of applicable proof, loans may be canceled for the following reasons:

1. death of the recipient;
2. complete and permanent disability of the recipient

which precludes the recipient from gainful employment.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:

§2107. Funding and Fees

A. Limitation of Terms Funded

1. Routine funding for all Scholarship and Grant Programs is limited to the fall, winter and spring school terms.

2. Extensions will be granted for the TOPS Opportunity, Performance, and Honors Awards for an institution's educational programs that require recipients to attend summer sessions to complete the program's mandatory courses when such courses are not offered during regular terms.

B. Fees. The LASFAC may charge a variable fee not to exceed \$10 for each award check processed for recipients of the T.H. Harris Scholarship. This fee will be charged only if the Louisiana Legislature fails to appropriate sufficient state general funds for administration of this program. The LASFAC, at its discretion, may automatically deduct the fee from each T.H. Harris Scholarship award check.

C. Less than Full-Time Attendance. The LASFAC will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards and the T.H. Harris Scholarship Program for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

1. requires less than full-time enrollment to complete the undergraduate degree; or

2. is enrolled in a degree program that defines *full-time* as less than 12 hours per semester or eight hours per quarter; or

3. requires less than full-time enrollment to complete requirements for a specified course of study or clinical program.

D. Insufficient Funds Appropriated

1. All LASFAC administered State Scholarship and Grant Program Awards are contingent upon the annual appropriation of funds by the Louisiana Legislature.

2. In the event appropriated funds are insufficient to fully reimburse institutions for awards and stipends for all students determined eligible for the TOPS Opportunity, Performance, Honors and TECH Awards for a given academic year, then the number of eligible students shall be reduced in accordance with the following procedures until such funds are sufficient.

a. Applicants who do not submit financial data on the FAFSA to allow determination of eligibility for federal aid will be the first students eliminated from consideration if insufficient funds are appropriated for the program.

b. After the elimination of students under §2107.D.2.a, if funds are still insufficient to award all of those students who remain eligible for award year 1998-99, then those students qualified by the actions of the First Extraordinary Session of 1998 shall be funded only after all awards to all students who are eligible pursuant to the requirements of this Chapter as they existed prior to any Act of the 1998 First Extraordinary Session of the Legislature are fully funded. Students qualified by actions of the First Extraordinary Session of 1998 include the following:

- i. students qualified by reduction of Foreign Language requirement for 1996-97 and 1997-98 graduates;
- ii. students qualified as Exceptional Students/Students with disabilities;
- iii. students who graduated from out-of-state high schools; and,
- iv. students who completed an Approved Home Study Program.

c. After the elimination of students in §2107.D.2.a and b, if funds are still insufficient to award all of the remaining students, then those who remain will be prioritized according to their ACT score and, within ACT score, by their EFC in ranges of \$1,000, from lowest to highest. Beginning with the lowest qualifying ACT score, the students with the highest EFC shall be eliminated until the funds available are sufficient to award all remaining students or until all students with that ACT score have been eliminated. This process shall be repeated, beginning with the lowest ACT score and progressing to the highest ACT score, until the projected expenditure for awards equals the funds appropriated for that purpose.

d. After the elimination of students in §2107.D.2.a, if funds are sufficient to award all students who were eligible prior to the Act of the 1998 First Extraordinary Session of the Legislature, but are insufficient to award all students made eligible under such Act and listed in §2107.D.2.b, then those students made eligible by such Act shall be rendered ineligible by application of §2107.D.2.c, above, until funds available are sufficient to award all remaining students.

3. From among those students otherwise eligible who are denied an award because of the imposition of the procedures in §2107.D.2, if additional funds subsequently become available for expenditure in the same award year, those students who have the highest ACT scores and the least capacity to pay, as evidenced by their families' lower EFC, shall be the first to be awarded by reversing the procedure described in §2107.D.2.c.

E. Stop Payment of Uncleared Checks. The LASFAC may stop payment on checks which are issued as scholarship or grant awards but not negotiated by September 1 following the close of the academic year for which they were issued. F .

Transferability of Funds. A student receiving an award under the Tuition Opportunity Program for Students (TOPS), Rockefeller State Wildlife Scholarship and/or the T.H. Harris Scholarship may have his award transferred to another postsecondary institution which is authorized to participate in these programs, as described in §1901. The student must meet all continuation requirements and submit a Scholarship and Grant Transfer Request Form.

AUTHORITY NOTE: Promulgated in accordance with R.S.

17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:

§2109. Appeal of Adverse Discretionary Decisions

A. Policies for Appeal of Adverse Discretionary Decisions

1. The Louisiana Student Financial Assistance Commission (LASFAC or commission) has established a formal appeal process consistent with the Louisiana Administrative Procedure Act by which aggrieved parties may appeal an agency adverse discretionary decision. An agency adverse discretionary decision is a decision made by agency staff based on an interpretation of legislative or regulatory intent and which has an adverse impact on an applicant or participant in a program administered by the commission. An applicant or program participant who believes the agency has incorrectly interpreted legislative or regulatory intent in making a decision and, said decision having adversely affected the applicant or participant, may file an appeal.

2. The appeal process allows for an initial review or hearing to be held by a hearing officer or an appeal committee appointed by the commission, depending upon the level of review requested.

3. If after the decision of the appeal committee or hearing officer the appellant is not satisfied, then he will have the right to seek review of the decision by the full commission.

4. If the commission refuses to review the decision of the hearing officer or the appeal committee, then the aggrieved party has the right to seek a rehearing on the matter by the full commission.

5. If the application for a rehearing is denied, then the aggrieved party has the right to seek judicial review.

B. Procedure for Appeal of Adverse Discretionary Decisions

1. Adverse discretionary decisions made by the Louisiana Office of Student Financial Assistance may be appealed to the Louisiana Student Financial Assistance Commission.

a. Petitions for appeal must be in writing and filed within 30 days of notice of the decision or, if no notice is given within 30 days from becoming aware of or the date the aggrieved party should have been aware of the adverse decision.

b. The appeal must be addressed to the Executive Director, Office of Student Financial Assistance and sent to Box 91202, Baton Rouge, LA 70821-9202, or hand delivered to the physical address of LASFAC in Baton Rouge.

c. Appeals may not be supplemented or amended after the lapse of 30 days. An appellant has the right to file a written appeal or have his appeal heard orally. Requests for an oral hearing must be made within the 30-day time period to file the appeal.

i. If no request for an oral hearing is made, then the appellant may submit documentation and/or written memorandum to support his appeal at least 15 days prior to the review of the commission or the appeal committee appointed by the commission. Appellant will be notified at

least 30 days prior to the date of the review by the commission or the appeal committee appointed by the commission. The commission or the appeal committee will review all the evidence submitted and render a decision.

ii. If the appellant requests an oral hearing, then appellant will be given at least 30 days prior notice of the hearing. The commission shall appoint a hearing officer to hear the appeal of the appellant. All hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

2. If after the review of the appeal committee or after a hearing held before the hearing officer a decision adverse to the appellant is made, then appellant may seek to have the decision reviewed by the full commission.

a. The application for review must be made within 15 days of appellant receiving notice of the decision. The appellant may submit exceptions, written arguments or briefs to support the application for review.

b. No oral hearing shall be held at this level of review. All action is stayed pending review by the full commission.

i. If the full commission denies the application for review, then the action becomes final as of the date of the denial for review.

ii. If the full commission denies the application for review then it shall set a hearing date to review the decision of the hearing officer.

3. The appellant may seek a rehearing of an adverse decision made by the full commission. The request for rehearing must conform to the provisions and time limits set by R.S. 49:959. An application for rehearing does not stay any action taken by the commission.

4. Oral Hearing. All hearings shall be held pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

a. On the day of the oral hearing appellant and appellee shall be prepared to start the hearing at the time specified in the notice of hearing.

b. The hearing may be continued for good cause provided a written request for extension is received at the commission at least seven days prior to the date of the hearing.

i. All parties will be notified of a rescheduling or postponement of the hearing.

ii. Failure to be present at the hearing and ready to proceed may result in an adverse decision against the nonappearing party.

iii. Strict rules of evidence will not apply in these hearings. The appellant shall have the following rights at the hearing:

(a). the right to present testimony, introduce evidence, and call witnesses on his behalf;

(b). the right to cross exam witnesses called by the agency;

(c). the right to subpoena witnesses;

(d). the right to take depositions;

(e). prior to the hearing, the right and the opportunity to review agency records that are relevant to his

appeal; and to make copies of those records at a cost of \$.20 per page;

(f). the right to be represented by counsel.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:650 (April 1998), amended LR 24:

§2113. Revision of the Core Curricula

LASFAC shall continually consult with BESE and the Louisiana Board of Regents to evaluate the adequacy of the TOPS core curricula to prepare students for postsecondary studies. Upon receipt of a written recommendation from either BESE or the Board of Regents that the curricula be revised, LASFAC shall draft such revision and submit the proposed revision to BESE and the Board of Regents. BESE and the Board of Regents shall formally act to recommend or reject the proposed change and notify LASFAC, in writing, of their actions. If both boards recommend the proposed change, LASFAC shall promulgate a notice of intent to adopt rule amending the core curricula as recommended. Such revisions of the core curricula shall be limited to updating the names of courses or establishing course equivalencies for any course included in the definition of core curriculum.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

Jack L. Guinn
Executive Director

9807#001

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration Board of Trustees of the State Employees Group Benefits Program

Diabetes Self-Management Training

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to adopt amendments to the Plan Document of Benefits.

This rule shall become effective on July 1, 1998, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The board finds that it is necessary to amend the Plan Document to implement the provisions of Act Number 1439 of the 1997 Regular Session of the Louisiana Legislature (R.S. 22:215.18), regarding benefits for diabetes self management training. Accordingly, the Plan Document of Benefits for the

State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section I, Subsection F, by adding a new paragraph, 36, to read as follows:

36. Outpatient self-management training and education, including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes, and non-insulin using diabetes, when such self-management training and education is provided by a licensed health care professional with demonstrated expertise in diabetes care and treatment who has completed an educational program required by the appropriate licensing board in compliance with the National Standards for Diabetes Self-Management Education Program as developed by the American Diabetes Association, and only as follows:

a. a one-time evaluation and training program for diabetes self management, conducted by the health care professional in compliance with the National Standards for Diabetes Self-Management Education Program as developed by the American Diabetes Association, upon certification by the health care professional that the covered person has successfully completed the program, such benefits not to exceed \$500;

b. additional diabetes self-management training required because of a significant change in the covered person's symptoms or conditions, limited to benefits of \$100 per year and \$2,000 per lifetime;

* * *

Ann B. Davenport
Deputy Director

9807#017

DECLARATION OF EMERGENCY

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

Pharmacy Program—Maximum Allowable Overhead Cost

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1998-99 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions including, but not limited to, pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed by the Act.

Commission use emergency procedures to set the wild alligator season, the Wildlife and Fisheries Commission, at its regular

The Department of Health and Hospitals, Bureau of Health Services Financing provides a pharmacy dispensing fee in the Pharmacy Program in accordance with the methodology established for the Maximum Allowable Overhead Cost which includes a \$0.10 provider fee collected on all prescriptions dispensed to Louisiana residents by pharmacists (*Louisiana Register*, Volume 18 Number 1). This dispensing fee is called the Louisiana Maximum Allowable Overhead Cost and is determined by updating the base rate through the application of certain economic indices to appropriate cost categories to assure recognition of costs which are incurred by efficiently and economically operated providers. During state fiscal years 1995-1996, 1996-97 and 1997-98, the bureau maintained the Louisiana Maximum Allowable Overhead Cost at the state fiscal year 1994-1995 level. The bureau has determined it is necessary to continue the Louisiana Maximum Allowable Overhead Cost at the state fiscal year 1994-1995 level. This action is necessary to avoid a budget deficit in the medical assistance programs. It is difficult to estimate the savings generated by this action, but a cost avoidance of approximately \$9,305,187 is anticipated for state fiscal year 1998 and 1999.

Emergency Rule

Effective for dates of service July 1, 1998 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions applicable to the Maximum Overhead Cost under the Pharmacy Program.

Maximum Allowable Overhead Cost

1. The Maximum Allowable Overhead Cost will remain at the level established for state fiscal year 1994-95. This Maximum Allowable Overhead Cost will remain in effect until the dispensing survey is completed and an alternate methodology is determined.

2. No inflation indices or any interim adjustments will be applied to the Maximum Allowable Overhead Costs.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding the emergency rule. A copy of this emergency rule may be obtained from the Medicaid parish office.

David W. Hood
Secretary

9807#042

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Alligator Season—1998

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

meeting held July 9, 1998, in Baton Rouge, Louisiana, set the 1998 wild alligator season dates.

The 1998 wild alligator harvest season shall be from official sunrise September 2, 1998 through official sunset October 1, 1998. Alligators taken from the wild may be removed from hook and line, and taken with other legal capture devices only during daylight hours, between official sunrise and official sunset.

Emergency procedures are necessary to allow department biologists adequate time to gather the biological data required to recommend season dates and harvest quotas.

The secretary of the Department of Wildlife and Fisheries shall have the authority to delay, extend, close or reopen this season based on technical data or if enforcement problems develop.

Thomas M. Gattle, Jr.
Chairman

9807#058

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial Fisherman's Assistance
Program (LAC 76:XVII.101)

The Wildlife and Fisheries Commission and the Department of Wildlife and Fisheries are exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). Promulgation of this rule as a declaration of emergency is necessary to expedite the provisions of Act 1413 of the 1997 Regular Session of the Legislature which established October 1, 1998 as the deadline for making applications for assistance under this program.

This declaration of emergency is effective July 30, 1998 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

Title 76

WILDLIFE AND FISHERIES

Part XVII. Commercial Fisherman's Assistance Program

Chapter 1. Proof of Income

§101. Criteria for Establishing Proof of Income and Procedures

A. The eligibility of applicants for economic assistance under R.S. 56:13.1, Commercial Fisherman's Assistance Program, shall be determined in accordance with the following criteria:

1. the applicant shall have purchased a saltwater gill net license in at least two of the years 1993, 1994, and 1995; and
2. the applicant shall have derived more than 50 percent of his earned income from the legal capture and sale of seafood species in at least two of the years 1993, 1994, and 1995; and
3. the applicant shall have suffered a loss of income due to the enactment of the Louisiana Marine Resources Conservation Act of 1995; and
4. applicant must have been a bona fide resident of Louisiana on June 30, 1995 and must provide proof of such as defined under R.S. 56:8(12)(a); and
5. the applicant must have submitted his/her application

not later than October 1, 1998.

B. Proof of such income for any of the years 1993, 1994, and 1995 shall be provided by the applicant using any of the methods listed below.

1. Method 1. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return including all attachments (e.g., Schedule C of federal form 1040, form W-2, etc.), which has been certified by the Internal Revenue Service (IRS).

2. Method 2. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return including all attachments (e.g., Schedule C of federal form 1040, form W-2, etc.), which has been filed and stamped received at a local IRS office accompanied with a signed cover letter acknowledging receipt by the IRS.

3. Method 3. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a signed copy of his federal tax return including all attachments (e.g., Schedule C of federal form 1040, form W-2, etc.), along with IRS stamped transcripts and IRS signed cover letter. Transcripts are available at local IRS offices.

C. The Socioeconomic Section of the Department of Wildlife and Fisheries, Office of Management and Finance will review the submitted tax return information and determine applicant's income eligibility as defined by R.S. 56:13.1.B(1). Proof of loss of income by the applicant shall be provided in the form of federal tax returns as specified in §101.B and determined by using the method below.

1. Proof of income loss will be determined by comparing the applicant's average earned income from the legal capture and sale of seafood species for two of the years 1993, 1994, and 1995 and the earned income for tax years 1996 or 1997 as reported on their federal income tax returns. Proof of such income shall be provided by the applicant using any of the methods listed in §101.B.

2. The criteria for providing economic assistance shall be determined by the Department of Wildlife and Fisheries, and shall be based on an individual's loss of income due to the enactment of the Louisiana Marine Resources Conservation Act of 1995.

D. Applicants who receive economic assistance under the Commercial Fisherman's Assistance Program (R.S. 56:13.1) shall be disqualified from receiving any mullet license permit pursuant to R.S. 56:333.

E. The Department of Labor will provide to the Department of Wildlife and Fisheries Licensing Section a quarterly status report containing the name, address, social security number, type of training with beginning date and estimated ending date, the anticipated cost and actual cost as incurred, for each fisherman receiving economic assistance under the Commercial Fisherman's Assistance Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:13.1.D.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:235 (March 1996), amended LR 24:

Thomas M. Gattle, Jr.
Chairman

9807#059

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Hunting Seasons—Farm-Raised White-Tailed Deer and Exotics (LAC 76:XIX.109)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of the Louisiana Constitution, Article IX, Section 7, R.S. 36:601 et seq., R.S. 56:115, R.S. 56:171 et seq., and R.S. 56:651 et seq., the Wildlife and Fisheries Commission hereby adopts the following emergency rule.

A declaration of emergency is necessary to allow for regulation of hunting of farm-raised white-tailed deer and exotics until permanent rules take effect. Permanent rules are being developed. This declaration of emergency will provide continuous regulation of farm-raised white-tailed deer and exotic hunting until the ratification of permanent rules.

This emergency rule will supplant any prior declaration of emergency adopted by the Wildlife and Fisheries Commission pertaining to hunting of farm-raised deer and exotics that is in effect on July 30, 1998, the effective date of this declaration of emergency.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting

Chapter 1. Resident Game Hunting Seasons

§109. Farm-Raised White-Tailed Deer and Exotics

A. Definitions

Exotics—any animal of the family *Bovidae* (except the Tribe *Bovini* [cattle]) or *Cervidae* which is not indigenous to Louisiana and which is introduced and kept within an enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

Farm-Raised White-Tailed Deer—any animal of the species *Odocoileus virginianus* which is introduced and kept within an enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry.

Same as Outside—hunting within an enclosure must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana Revised Statutes and as established annually by the Wildlife and Fisheries Commission for the specific geographic area in which the enclosure is located.

B. Hunting Seasons

1. Farm-Raised White-tailed Deer: Same as outside, except still hunt only during all segments.

2. Exotics: Year round.

3. A Farm-Raising licensee may kill farm-raised white-tailed deer within the enclosure for which he is licensed at any time during daylight hours after proper notice is given as required by the Department of Agriculture and Forestry Alternative Livestock Rules.

C. Methods of Take

1. Farm-Raised White-Tailed Deer: Same as outside.

2. Exotics: Exotics may be taken with longbow (including compound bow) and arrow; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber center fire; or muzzle loading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets only.

D. Shooting Hours

1. Farm-Raised White-Tailed Deer: Same as outside.

2. Exotics: One-half hour before sunrise to one-half hour after sunset.

E. Bag Limit

1. Farm-Raised White-Tailed Deer: Same as outside.

2. Exotics: No limit.

F. Hunting Permit and Licenses

1. Farm-Raised White-Tailed Deer: Same as outside.

2. Exotics: No person shall take or attempt to take any exotic without possessing an Exotic Hunting Permit issued by the Department of Wildlife and Fisheries. An administrative fee of \$50 shall be assessed for each Exotic Hunting Permit. Permits are valid only on the deer farm indicated on the face of the permit. Permits shall be issued on a fiscal year basis beginning July 1 of each calendar year and shall expire on June 30 of the following calendar year.

G. Tagging

1. Farm-Raised White-Tailed Deer: Same as outside.

2. Exotics: Each exotic shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the Department of Agriculture and Forestry. The tag shall remain with the carcass at all times.

H. Additional Restrictions. Except as otherwise specified herein, all of the provisions of Title 56 of the Louisiana Revised Statutes and the Wildlife and Fisheries Commission rules pertaining to the hunting and possession of white-tailed deer shall apply to farm-raised white-tailed deer and exotics.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 36:601, R.S. 56:115, R.S. 56:171 et seq., and R.S. 56:651 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:

Thomas M. Gattle, Jr.
Chairman

9807#056

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shrimp Season Closure—Zone 2

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission

shall fix no less than two open seasons each year for all inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 7, 1998 which authorized the secretary of the Department of Wildlife and Fisheries to close the 1998 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicate the need to do so, the secretary hereby declares:

that the 1998 Spring Inshore Shrimp Season shall be closed in all of Zone 2, that portion of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River west to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, at 6 a.m., Tuesday, June 30, 1998.

Substantial numbers of small white shrimp have been taken in recent shrimp samples by department personnel. These small white shrimp are widely distributed throughout Zone 2, and the number of white shrimp is expected to increase substantially over the next few weeks.

Zones 1 and 3 will remain open until further notice.

James H. Jenkins, Jr.
Secretary

9807#003

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shrimp Season Closure—Zone 3

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 7, 1998 which authorized the secretary of the Department of Wildlife and Fisheries to close the 1998 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicate the need to do so, the secretary hereby declares:

that the 1998 Spring Inshore Shrimp Season shall be closed in all of Zone 3, that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island west to the Louisiana/Texas State Line, at 6 p.m., Monday, July 6, 1998.

Small white shrimp have begun to occur in shrimp samples taken by department personnel throughout Zone 3. The number of white shrimp has increased substantially since the previous week, and is expected to continue to increase over the next few weeks.

James H. Jenkins, Jr.
Secretary

9807#027

Rules

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Structural Pest Control Commission

Donation of Structural Pest Control Work (LAC 7:XXV.163)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission adopts regulations governing the donation of structural pest control work to individuals who otherwise could not afford such services in order to improve the living conditions and their quality of life. These rules comply with and are enabled by R.S. 3:3203(A).

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§163. Donation of Structural Pest Control Work

A. Structural pest control operators licensed by the Structural Pest Control Commission may donate, in accordance with this Section, structural pest control services to eligible individuals or organizations who otherwise could not afford such services in order to improve living conditions and their quality of life.

B. The Structural Pest Control Commission, at the request of the Louisiana Pest Control Association or any other state or local Not-For-Profit association of pest control operators, may approve a plan for the donation of pest control services to individuals or organizations that are in need of, but unable to afford such services.

C. Any plan submitted to the Structural Pest Control Commission must state:

1. the purpose of the plan;
2. the organization(s) or group(s) of persons receiving such services;
3. the nature of the services to be provided;
4. the location(s) at which the services are to be provided;
5. the length of time the program is to run;
6. the licensed pest control operators who are expected to participate;
7. any other information the commission may deem necessary to properly evaluate the plan.

D. Upon approval of any such plan by the commission, the Louisiana Department of Agriculture and Forestry shall suspend:

1. the fee for termite contracts required under LAC 7:XXV.117.M; and
2. the requirements of LAC 7:XXV.123 pertaining to contracts.

E. The Rules and Regulations suspended by Subsection D above are waived only for the duration of the program and only in connection with structural pest control work performed by participating licensed pest control operators on buildings and structures at the specific locations listed in the approved plan.

F. The month of June is the Louisiana Pest Control Month. All programs for the donation of pest control work shall begin in June and end at the time specified in the plan that is submitted and approved by the Structural Pest Control Commission. The commissioner may, for exceptional circumstances, approve a plan to begin in a month other than June.

G. A copy of the approved plan, showing the list of specific eligible locations and the beginning and ending dates of the program shall be published in the potpourri section of the *Louisiana Register* at least 30 days prior to the beginning of the program.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 24:1262 (July 1998).

Bob Odom
Commissioner

9807#053

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Commission Bylaws (LAC 28:V.Chapter 1)

The Louisiana Student Financial Assistance Commission (LASFAC), the statutory body created by R.S. 17:3021 et seq., in compliance with §952 of the Administrative Procedure Act, hereby revises its governing bylaws (originally promulgated in the September 1996 *Louisiana Register*, pages 809-813), as follows:

(Editor's Note: The full text of these bylaws is being repromulgated in order to place the text in LAC codified format. The agency is amending §§101, 105, and 113. Other sections are not being amended.)

Title 28

EDUCATION

Part V. Student Financial Assistance—Higher

Education Loan Program

Chapter 1. Student Financial Assistance Commission

Bylaws

§101. Definitions and Authority

Assistant Executive Director (as used in these bylaws)—that person appointed in the unclassified service as the principal assistant to the executive director, who shall, as delegated by the executive director, assume the duties of the executive director during his/her absences.

Chairman of the Commission (as used in these bylaws)—the executive secretary to the governor or his/her designee, who shall serve as ex officio chairman of the commission.

Director (as used in these bylaws)—that person appointed in the classified service as the administrative head of a division of the Office of Student Financial Assistance.

Divisions (as used in these bylaws)—a subordinate organizational element of the Office of Student Financial Assistance which has been approved by the commission.

Executive Director (as used in these bylaws)—that person duly appointed by the commission pursuant to R.S. 17:3022(B) to serve in the unclassified service as executive director of the Office of Student Financial Assistance, who shall be its chief executive officer and the appointing authority for all classified employees of the office.

Fiscal Officer (as used in these bylaws)—that employee of the office assigned responsibility for preparation and monitoring the approved budget of the commission, who may jointly serve as a director.

Louisiana Student Financial Assistance Commission (as used in these bylaws)—the statutory body created by R.S. 17:3021, et seq., which shall be composed of the members who are duly appointed and qualified as provided by law. The commission shall be the governing body of the Office of Student Financial Assistance and shall establish procedures for the selection and appointment of the unclassified employees of that office, in conformance with applicable laws.

Office of Student Financial Assistance (as used in these bylaws)—the organization created by R.S. 36:650 to perform the functions of the state relating to the programs of financial assistance and the certain scholarship programs for higher education in accordance with the directives of the commission and applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), amended LR 24:1263 (July 1998).

§103. Meetings

A. Regular Meetings. The commission shall hold regular meetings which are limited in number to 12 per year. All regular meetings shall be held at meeting places designated by the commission. Proxy voting shall be allowed at all meetings for the chairman of: State Board of Elementary and Secondary Education; Board of Supervisors, Louisiana State University; Board of Supervisors, Southern University; Board of Regents;

Board of Trustees and Louisiana Association of Independent Colleges and Universities, or each of their designees; however, any proxy holder must also be a member of that respective board. The superintendent of education may vote by proxy through a member of his/her executive staff. No other members shall have the right of proxy voting.

B. Special Meetings. Special meetings of the commission may be called by the chairman at any time, or by the secretary upon written request therefor signed by a majority of the members and specifying the purposes of the desired meeting. Written notification shall be sent to each member at least three calendar days before the time of the meeting.

C. Compensation.

1. Members of the commission shall receive compensation for their service at the rate authorized by statute or as authorized by executive order, and shall be reimbursed for their necessary travel expenses actually incurred in the conduct of the business of the commission.

2. The commission is limited to 12 meetings per year for which per diem may be drawn by commission members. D .

Quorum. A simple majority of the commissioners shall constitute a quorum for the transaction of any business, and a simple majority of the quorum present at any meeting voting in favor or against a particular item shall be the act of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1263 (July 1998).

§105. Officers of the Commission and Executive Staff

A. Chairman and Vice Chairman.

1. The executive secretary to the governor or his/her designee shall serve as ex officio chairman of the commission. The commission shall select a vice chairman annually. Should a vacancy occur in the vice chairmanship, the commission shall elect a successor from its membership. The commission may elect such other officers as it deems necessary.

2. The chairman of the commission shall preside over all meetings of the commission, serve as ex officio member of all committees, name the appointive members of all standing and special committees of the commission, and fill all vacancies in the membership of such committees, in accordance with the provisions of these bylaws.

3. The vice chairman of the commission shall perform the duties of the chairman in the absence of the chairman of the commission.

4. In the event both the chairman and the vice chairman are absent from a commission meeting, the commission shall elect a temporary chairman from those present.

B. Secretary. The commission shall elect a secretary annually, who may certify the minutes, papers and documents of the commission or of its committees to be true and correct copies.

C. Executive Staff. The executive staff of the commission shall include the incumbent of those positions within the Office of Student Financial Assistance so designated by the executive director and will normally be composed of the executive director, the assistant executive director, the general counsel, the fiscal officer and the directors of the divisions of the office,

and such other personnel as may be required for the efficient performance of the functions of the commission. The executive staff shall be tasked, directed and supervised by the executive director.

D. Authentication. Copies of all minutes, papers and documents of the commission, or its committees, may be certified to be true and correct copies by either the chairman, secretary or executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), amended LR 24:1263 (July 1998).

§107. Order of Business

A. Rules of Order. When not in conflict with any of the provisions of this article, *Robert's Rules of Order* (latest revision) shall constitute the rules of parliamentary procedure applicable to all meetings of the commission or its committees.

B. Order of Business. The order of business of regular meetings of the commission shall be as follows:

1. roll call;
2. corrections and approval of minutes of preceding regular meetings and of all special meetings held subsequent thereto;
3. reports and recommendations of standing and special committees;
4. unfinished business;
5. divisional updates;
6. new business;
7. next meeting.

C. Reference to Committees. In cases where feasible and desirable before taking action, the commission should refer any subject or measure to the standing or special committee in whose purview the matter falls. The committee to which the matter is referred should submit to the commission its recommendations in writing, together with any resolutions necessary to facilitate such recommendations.

D. Meetings.

1. Meetings shall be conducted in accordance with state law governing public bodies. It shall be the policy of the commission that all meetings be open to all who wish to attend. The commission shall enter into a closed or executive session by two-thirds majority vote of the quorum present. Prior to each regular meeting of the commission, the executive director, with approval of the chairman, shall prepare and forward to each member of the commission a tentative agenda for the meeting at least five working days prior to such regular meeting. Upon request of three members of the commission made prior to the fifth day before the next commission meeting that a particular item be included, the chairman shall place the subject or subjects upon the agenda. All matters requiring commission action, however, may be acted on even though not carried on the agenda.

2. Each resolution shall be reduced to writing and presented to the commission before it is acted upon. All official actions of the commission shall require a simple majority vote of the quorum present at the meeting.

E. Minutes. The minutes of the commission shall record official action taken upon motions or resolutions which are

voted upon by the commission and may contain a summary of reports and pertinent discussion. The foregoing provisions relative to contents of the minutes shall, in general, also apply to minutes of committees of the commission. The minutes of meetings of the commission become official only when completed and approved by the commission.

F. Meeting Attendance. Commission members are required to attend all commission meetings. Failure to attend three meetings annually will result in a notice being sent from the commission to the absent member stating that failure to attend one more meeting will result in a request being made to the appointing authority that the absent member be replaced. In the event a fourth meeting is missed, said request shall be sent to the appointing authority. Also, the absent member shall be relieved of duties on any committee to which he/she has been appointed to serve. This section is not applicable to meetings that are missed with just cause, as determined by the chairman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1264 (July 1998).

§109. Committees

A. Standing Committees. Unless and until otherwise decided by the vote of a simple majority of the membership of the commission, the standing committees of the commission shall consist of the following:

1. Executive Committee;
2. Budget and Finance Committee;
3. Personnel and Policy Committee.

B. Appointment and Terms.

1. Members of all standing committees, one of whom shall be designated as chairman and one of whom shall be designated as vice chairman, shall be appointed by the chairman of the commission, ordinarily soon after the chairman assumes office. The term of committee appointments shall be one year.

2. Vacancies occurring among the appointive members of any committees, however arising, shall be filled by the chairman of the commission for the remainder of the unexpired term.

C. Officers of Standing Committees.

1. The chairman and the vice chairman of the commission shall be chairman and vice chairman, respectively, of the executive committee. In the absence of the chairman, the vice chairman shall preside. In the event both the chairman and vice chairman are absent from a meeting, the committee shall elect a temporary chairman from those present.

2. It shall be the duty of the chairman of each committee to call and to preside over the necessary meetings. The minutes of the meeting of the committee, showing its actions and recommendations, shall be deemed in compliance with the provisions of §107.C, hereof, concerning the written recommendations of the committee.

D. Quorum of Committee Meetings. A simple majority of the membership present at a meeting of a committee of the commission shall constitute a quorum for the transaction of business. When a quorum is not present, the chairman of the

committee, or vice chairman in the chairman's absence, may designate a member of the commission to serve as a substitute member of the committee concerned.

E. Authority of Committees. The authority of committees of the commission shall be subject to these bylaws and to the policies and direction of the commission.

F. Executive Committee

1. The executive committee shall consist of five members. The chairman and vice chairman of the commission shall serve in those capacities on the executive committee. The chairman of each of the other standing committees or the chair's designee from his respective committee shall be a member of the executive committee. The remaining person, for a total of five members, shall be appointed by the chairman of the commission from the other members of the commission.

2. The executive committee shall consider such matters as shall be referred to it by the commission and shall execute such orders and resolutions as shall be assigned to it at any meeting of the commission. All official actions of the executive committee shall require a majority vote of the quorum present at the meeting. The executive committee shall also approve all budget adjustments prior to submission to the appropriate authority. In the event that an emergency requiring immediate commission action shall arise between commission meetings, it shall be the duty of the executive committee to meet in emergency session to take such action as may be necessary and appropriate. The executive committee shall report the actions it takes in emergency session to the commission for ratification at the commission's next meeting.

G. Budget and Finance Committee. The Budget and Finance Committee shall consist of not less than six members of the commission. Normally, to this committee shall be referred all matters related to budget and to policies concerning the financial management of the commission and the office.

H. Personnel and Policy Committee. The Personnel and Policy Committee shall consist of not less than six members of the commission. Normally, to this committee shall be referred matters concerning reorganization of the office. This committee shall hear appeals pursuant to the office's grievance procedure.

I. Special Committees. As the necessity therefor arises, the chairman may, with the concurrence of the commission, create special committees with such functions, powers and authority as may be delegated. The chairman may appoint ad hoc committees for special assignments for limited periods of existence not to exceed the completion of the assigned task.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1264 (July 1998).

§111. Communications to the Commission

All communications to the commission, or to any committee thereof, from persons having official relations with the commission shall be filed in writing with the executive director and duly transmitted by him to the commission. The

executive director shall have the authority to read and comment upon all communications from employees of the office but shall not delay or withhold such communications, except as hereinafter provided. Such communications shall be filed with the executive director at least five days before the meeting of the commission or committee and with the chairman at least three days before such meeting. Otherwise, the executive director may either submit such communication at that time or withhold such communication until the next meeting. In the event the executive director elects to withhold any such communication until the next meeting, such communication shall be promptly forwarded to the chairman with the notation of the executive director concerning such withholding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1265 (July 1998).

§113. Rights Duties and Responsibilities of the Executive Staff of the Commission

A. Executive Staff of the Commission

1. The executive staff of the commission staff shall include the incumbent of those positions within the Office of Student Financial Assistance so designated by the executive director and will normally be composed of the executive director, the assistant executive director, the general counsel, the fiscal officer, and the directors of the divisions of the office, and such other personnel as may be required for the efficient performance of the functions of the commission. The executive staff shall be tasked, directed and supervised by the executive director.

2. Unless otherwise directed by the executive director, the executive staff shall attend the meetings of the commission and its various committees.

B. Executive Director

1. The executive director shall be the executive head and chief administrative officer of the Office of Student Financial Assistance. The executive director will be responsible to the commission for the conduct of the Office of Student Financial Assistance in all affairs and shall execute and enforce all of the decisions, orders, rules and regulations of the commission with respect to the conduct of the Office of Student Financial Assistance. The executive director shall be appointed by and shall hold office at the pleasure of the commission. The executive director's discretionary authority shall be broad enough to enable him/her to meet his/her responsibilities, in the day-to-day operations of the Office of Student Financial Assistance.

2. The executive director shall be the "appointing authority" for the purposes defined by state civil service law, rules and regulations and shall exercise the authority granted to an "appointing authority" thereunder.

3. The executive director shall have the authority to suspend or dismiss unclassified employees.

4. Subject to these bylaws and the regulations and directions of the commission, the executive director shall:

a. establish administrative policies and procedures for the operation of the Office of Student Financial Assistance;

b. plan, organize, supervise, direct, administer, and execute the functions and activities of the Office of Student Financial Assistance;

c. prepare and present a business plan and consolidated budget for the Office of Student Financial Assistance and the commission;

d. serve as governmental liaison and spokesperson for the commission;

e. promote the development of the commission's programs.

5. The executive director shall task, direct, and supervise the executive staff.

6. The executive director shall be responsible for ensuring compliance with the legislatively enacted budgets as approved by the commission.

7. Annually, on or before July 1st, an evaluation of the executive director's job performance and compensation shall be conducted by the commission. These evaluations shall be conducted using a format adopted by the commission for these purposes. Changes to the compensation structure adopted by the commission shall be effective on July 1st of the year in which the evaluation is performed.

C. Assistant Executive Director. The assistant executive director shall be nominated by the executive director and confirmed by the commission. The assistant executive director shall serve as the principal assistant to the executive director and, as delegated by the executive director, assume the duties of the executive director during his/her absences. He/She shall be responsible to the executive director for the effective performance of all duties assigned by the executive director, in accordance with the policies, rules, regulations, directives and memoranda issued by the executive director and the commission.

D. Directors of Divisions

1. There shall be a director for each division of the Office of Student Financial Assistance, appointed by the executive director in accordance with state civil service laws, rules and regulations. Under the direction and authority of the executive director and the rules of the commission, each director shall administer the division for which he/she is appointed.

2. As the administrative head of a division, the director shall be responsible to the executive director for planning, supervising, directing, administering and executing the functions and programs assigned to the division in accordance with all applicable laws, rules, regulations, policies, directives, and budgets.

3. The directors may invite members of his/her administrative staff to aid him in his/her presentations to the commission.

E. Delegation of Authority. In the absence of the executive director, the assistant executive director, as delegated by the executive director, will assume the duties of the executive director during his/her absences. In the event both the executive director and the assistant executive director are absent, the executive director will appoint the most senior division director to assume the duties of the executive director.

F. Agency Fiscal Officer (Manager). The fiscal officer is responsible for assisting the directors in developing annual operating budgets based upon the commission's approved business plan. This shall include the functions of review and recommendations concerning the budget of each division and the preparation of a consolidated budget, as well as monitoring and reporting the budget as approved by the commission and enacted by the state legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), amended LR 24:1265 (July 1998).

§115. Responsibilities of Commission Members

Commission members are charged with the responsibility of ensuring that the functions and duties of the Office of Student Financial Assistance are performed effectively in fulfilling the purposes of R.S. 17:3021 et seq. Prior to assuming the responsibilities to which appointed and to avoid any potential conflict of interest, a commissioner shall, to the best of his or her knowledge, disclose to the State Board of Ethics any pre-existing relationship between the commission and the commissioner or any member of the commissioner's immediate family or any entity in which the commissioner has a substantial economic interest. This obligation to disclose is a continuing obligation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1266 (July 1998).

§117. Amendment or Repeal of Bylaws

New bylaws may be adopted, and bylaws may be amended or repealed, at any meeting of the commission, but no such action shall be taken unless notice of such proposed adoption, amendment, or repeal shall have been given at a previous meeting or notice in writing of the proposed change shall have been served upon each member of the commission at least 30 days in advance of the final vote upon such change, provided, however, when deemed necessary, that by a simple majority of the entire membership of the commission, the requirements for such notice may be waived at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1266 (July 1998).

§119. Rules and Regulations of Louisiana Student Financial Assistance Commission

A. Any action by the commission establishing policy or methods of procedure, administrative, business, or otherwise shall be known as "Rules and Regulations of the Louisiana Student Financial Assistance Commission."

B. "Rules and Regulations of the Louisiana Student Financial Assistance Commission" may be adopted by the commission, or may be amended or repealed, in whole or in part, at any meeting of the commission by a vote of simple majority.

C. All policies and procedures of the commission falling within the definition of rules and regulations, as herein

defined, and in existence upon the date of the adoption of these bylaws, shall be a part of the "Rules and Regulations of the Louisiana Student Financial Assistance Commission."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1266 (July 1998).

§121. Effective Date

These bylaws shall be adopted and shall become effective on the date they are published as final rule in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1267 (July 1998).

§123. Repealing Clause

All rules, orders, regulations, and resolutions heretofore enacted or adopted by this commission, which are in conflict with these bylaws, are hereby repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1267 (July 1998).

Jack L. Guinn
Executive Director

9807#013

RULE

Tuition Trust Authority Office of Student Financial Assistance

Student Tuition and Revenue Trust (START Saving)
Program (LAC 28:VI.Chapters 1 and 3)

The Tuition Trust Authority hereby amends rules governing the Student Tuition Assistance and Revenue Trust (START Saving) Program.

The Student Tuition Assistance and Revenue Trust (START Saving) Program was created by R.S. 17:3091 et seq. The *Internal Revenue Code* (IRC) §529 provides tax incentives for those state tuition savings and prepayment programs meeting the definition of a qualified state tuition program. The rules are being revised to reflect changes in the IRC §529 and editorial changes.

Title 28 EDUCATION

Part VI. Student Financial Assistance—Higher Education Savings

Chapter 1. General Provisions

Subchapter A. Student Tuition Trust Authority

§101. Program Description and Purpose

A. The Louisiana Student Tuition Assistance and Revenue Trust (START Saving) Program was enacted in 1995 to provide a program of savings for future college costs to:

1. help make education affordable and accessible to all citizens of Louisiana;

2. assist in the maintenance of state institutions of postsecondary education by helping to provide a more stable financial base to these institutions;

3. provide the citizens of Louisiana with financing assistance for education and protection against rising tuition costs, to encourage savings to enhance the ability of citizens to obtain access to institutions of postsecondary education;

4. encourage academic excellence, to promote a well-educated and financially secure population to the ultimate benefit of all citizens of the state; and

5. encourage recognition that financing an education is an investment in the future.

B. The START Saving Program establishes education savings accounts by individuals, groups, or organizations with provisions for routine deposits of funds to cover the future educational costs of a designated beneficiary or a group of beneficiaries.

1. In addition to earning regular interest at competitive rates, certain accounts are also eligible for tuition assistance grants provided by the state to help offset the beneficiary's cost of postsecondary tuition.

2. The grant amount is determined by the account owner's federal annual income and total annual deposits of principal.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), repromulgated LR 24:1267 (July 1998).

§103. Legislative Authority

Act Number 547 of the 1995 Regular Legislative Session, effective June 18, 1995, enacted the Louisiana Student Tuition Assistance and Revenue Trust (START) Saving Program as Chapter 22-A, Title 17 of the Louisiana Revised Statutes (R.S. 17:3091-3099.2).

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), repromulgated LR 24:1267 (July 1998).

§105. Program Administration

A. The Louisiana Tuition Trust Authority (LATTA) is a statutory authority whose membership consists of the Louisiana Student Financial Assistance Commission (LASFAC), plus one member from the Louisiana Bankers Association, the state treasurer, and one member each from the house of representatives and state senate.

B. The LATTA administers the START Saving Program through the Louisiana Office of Student Financial Assistance (LOSFA).

C. LOSFA is the organization created to perform the functions of the state relating to programs of financial assistance and certain scholarship programs for higher education in accordance with directives of its governing bodies and applicable law, and as such is responsible for administering the START Saving Program under the direction of the LATTA.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), repromulgated LR 24:1267 (July 1998).

§107. Applicable Definitions

Account Owner—the person(s), independent student, organization or group that completes a depositor's agreement on behalf of a beneficiary or beneficiaries and is the account owner of record of all funds credited to the account.

Beneficiary—the person named in the education savings account depositor's agreement as the individual entitled to apply the account balance, or portions thereof, toward payment of their postsecondary qualified higher education expenses.

Depositor's Agreement—the agreement for program participation executed by the account owner which incorporates, by reference, R.S. Chapter 22-A, Title 17, and the rules promulgated by the LATTA to implement this statute and any other state or federal law applicable to the agreement.

Education Assistance Account (EAA)—an account which is eligible for tuition assistance grants and is established on behalf of a designated beneficiary by a parent, grandparent, legal guardian, or person claiming the beneficiary as a dependent on their federal income tax or by an independent undergraduate on his own behalf.

Education Savings Account—a comprehensive term which refers to the two types of accounts that may be established under the program: an *Education Assistance Account* and an *Education Scholarship Account*.

Education Scholarship Account (ESA)—an account which is not eligible for tuition assistance grants and is established on behalf of a beneficiary or beneficiaries by a person or organization other than a parent, grandparent, legal guardian, independent student or person claiming the beneficiary or beneficiaries as dependent(s) on that person's or organization's federal income tax return.

Eligible Educational Institution—either a state college, university, or technical college or institute or an independent college or university located in this state that is accredited by the regional accrediting association, or its successor, approved by the U.S. secretary of education or a public or independent college or university located outside this state that is accredited by one of the regional accrediting associations, or its successor, approved by the U.S. secretary of education or a state licensed proprietary school licensed pursuant to R.S. Chapter 24-A of Title 17, and any subsequent amendments thereto.

Emergency Refund—a refund of the redemption value of an account due to an unforeseen event which has adversely impacted the account owner, such as termination of employment, death, or permanent disability and resulted in a severe reduction in income or extraordinary expenses.

Enrollment Period—that period designated by the LATTA during which applications for enrollment in the START program will be accepted by the LATTA.

False or Misleading Information—a statement or response made by a person which is knowingly false or misleading and made for the purpose of establishing a program account and/or receiving benefits to which the person would not otherwise be entitled.

Family Member—in reference to the account beneficiary:

1. an ancestor of such individual;
2. the spouse of such individual;
3. step-sibling(s) and their spouse;
4. a lineal descendant of such individual, of such

individual's spouse or parent of such individual or the spouse of any lineal descendant described herein. A legally adopted child of an individual shall be treated as a lineal descendant of such individual.

Fully Funded Account—an account having a redemption value equal to or greater than five times the annual tuition at the highest cost Louisiana public college or university projected to the scheduled date of the beneficiary's first enrollment in an eligible educational institution. An account which is "fully funded" is no longer eligible for accrual of tuition assistance grants. However, if subsequent cost projections result in the fully funded amount being more than the account balance, then tuition assistance grants may resume until the level of the most recent fully funded account projection has been met.

Independent Student—a person who is defined as an independent student by the Higher Education Act of 1965, as amended, and if required, files an individual federal income tax return in his/her name and designates him/herself as the beneficiary of an education assistance account.

Louisiana Education Tuition and Savings Fund (the Fund)—a special permanent fund maintained by the Louisiana State Treasurer for the purpose of the START Saving Program, consisting of deposits made by account owners pursuant to the START Saving Application and Depositor's Agreement, interest earned on said deposits as a result of investment by the Louisiana State Treasurer, accumulated penalties and forfeitures, and the Tuition Assistance Fund, which is a special sub-account designated to receive tuition assistance grants appropriated by the State, and interest earned thereon.

Louisiana Office of Student Financial Assistance (LOSFA)—the organization responsible for administering the START Saving Program under the direction of the Louisiana Tuition Trust Authority.

Louisiana Resident—

1. any person who resided in the state of Louisiana continuously during the 12 months immediately prior to the date of application and who has manifested intent to remain in the state by establishing Louisiana as legal domicile, as demonstrated by compliance with all of the following:

- a. if registered to vote, is registered to vote in Louisiana;
- b. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;
- c. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle;
- d. if earning an income, has complied with state income tax laws and regulations.

2. a member of the Armed Forces stationed outside of Louisiana, but who claims Louisiana as his "home of record" and is in compliance with Paragraph 1.d above, is exempt from the requirement of continuous residence in the state

during the 12 months preceding the date of completion of the depositor's agreement;

3. a member of the Armed Forces stationed in Louisiana under permanent change of station orders shall be considered eligible for program participation;

4. persons less than 21 years of age are considered Louisiana residents if they reside with and are dependent upon one or more persons who meet the above requirements.

Louisiana Tuition Trust Authority (LATTA)—the statutory body responsible for the administration of the START Saving Program.

Maximum Allowable Account Balance—the amount projected to equal five times the annual qualified higher education expenses, including tuition at the eligible educational institution selected projected to the scheduled date of the beneficiary's first enrollment in that institution, and qualified room and board costs. In the event no specific eligible educational institution is named by the account owner, the maximum allowable account balance amount is projected to equal five times the annual qualified higher education expenses, including tuition, at the highest cost public institution in the state, projected to the scheduled date of the beneficiary's first enrollment. Once the redemption value of an education assistance account equals or exceeds the maximum allowable account balance, principal deposits will no longer be accepted for the account. However, if subsequent projections increase the maximum allowable account balance, principal deposits may resume until the most recent maximum allowable account balance has been attained.

Qualified Higher Education Expenses—tuition, fees, books, supplies, equipment, and room and board required for the enrollment or attendance of a designated beneficiary at an eligible institution of postsecondary education

Rate of Expenditure—the rate [see §309. C] per academic year, at which tuition assistance grants may be disbursed from an education assistance account to pay the beneficiary's cost of tuition, or portion thereof, at an eligible educational institution.

Redemption Value—the cash value of an education savings account attributable to the sum of the principal invested, the interest earned on principal and authorized to be credited to the account by the LATTA, any tuition assistance grants appropriated by the legislature and authorized by the LATTA to be allocated to the account and the interest earned on tuition assistance grants, less any tuition assistance grants or interest thereon restricted from expenditure and less any penalties required by *Internal Revenue Code*, §529(b)(3). If the account has a redemption value after the beneficiary has completed his educational program, this excess value shall be treated as a refund.

Refund Recipient—the person authorized by the depositor's agreement, or by operation of law, to receive refunds from the account.

Room and Board—qualified room and board costs include the reasonable cost for the academic period incurred by the designated beneficiary for room and board while attending an eligible educational institution on at least a half time basis, not to exceed the minimum amount included for room and board

for such period in the cost of attendance (as currently defined in §472 of the Higher Education Act of 1965, 20 U.S.C. 1087II) for the eligible educational institution for such period. Room and board are only qualified higher education expenses for students who are enrolled at least half time.

Scheduled Date of First-Enrollment—for a dependent beneficiary, is the month and year in which the beneficiary turns 18 years of age. For an independent student, the scheduled date of first-enrollment is the expected date of enrollment reported by the independent student beneficiary. This date is used to determine eligibility for tuition assistance grants. See the term "*Fully Funded Account*."

Tuition—the mandatory educational charges required as a condition of enrollment and limited to undergraduate enrollment. It does not include nonresidence fees, laboratory fees, room and board nor other similar fees and charges.

Tuition Assistance Grant—a payment allocated to an education assistance account, on behalf of the beneficiary of the account, by the state. The grant amount is calculated based upon the account owner's annual federal adjusted gross income and total annual deposits of principal. The grant and interest earned may only be used to pay the beneficiary's tuition, or portion thereof, at an eligible in-state institution.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998).

Chapter 3. Education Savings Account

Note: Except where otherwise provided, all terms, conditions, and limitations in this Chapter shall apply to both education assistance accounts and education scholarship accounts.

§301. Education Assistance Accounts (EAA)

A. An Education Assistance Account is an Education Savings Account eligible for tuition assistance grants, which is established on behalf of a designated beneficiary by a parent, grandparent, legal guardian or the person claiming the designated beneficiary of the account as a dependent on their federal income tax return, or by an independent student on his own behalf to acquire an undergraduate certificate, associate degree, or undergraduate degree.

B. Program Enrollment Period

1. All eligible beneficiaries during 1997 may be enrolled between July 1 and December 1, 1997. Thereafter, all eligible beneficiaries may be enrolled between July 1 and November 1 of each year.

2. In addition to the July 1 through November 1 enrollment period, the enrollment period for newborn infants is open from the date of birth until the named beneficiary's first birthday.

C. Completing the Depositor's Agreement

1. This agreement must be completed, in full, by the account owner.

2. The account owner shall designate a beneficiary.

3. The account owner may designate a limited power of attorney to another person who would be authorized to act on the account owner's behalf, in the event the account owner became incapacitated.

4. Transfer of account ownership is not permitted, except in the case of the death of an account owner.

5. Only the account owner or the beneficiary may be designated to receive refunds from the account.

D. Agreement to Terms. Upon executing a depositor's agreement, the account owner certifies that he understands and agrees to the following statements:

1. Admission to a Postsecondary Educational Institution—that participation in the START Program does not guarantee that a beneficiary will be admitted to any institution of postsecondary education;

2. Payment of Full Tuition—that participation in the START Program does not guarantee that the full cost of the beneficiary's tuition will be paid at an institution of postsecondary education nor does it guarantee enrollment as a resident student;

3. Maintenance of Continuous Enrollment—that once admitted to an institution of postsecondary education, participation in the START Program does not guarantee that the beneficiary will be permitted to continuously enroll or receive a degree, diploma, or any other affirmation of program completion;

4. Guarantee of Redemption Value—that the LATTA guarantees payment of the redemption value of any Education Savings Account, subject to the limitations imposed by R.S. 17:3098;

5. Conditions for Payment of Education Expenses—that payments for qualified higher education expenses under the START Saving Program are conditional upon the beneficiary's acceptance and enrollment at an eligible educational institution;

6. Fees—that except for penalties which may be imposed on refunds, the LATTA shall not charge fees for the opening or the maintenance of an account; financial institutions may be authorized by the LATTA to offer assistance in establishing a START Program account.

E. Acceptance of the Depositor's Agreement

1. A properly completed and submitted depositor's agreement will be accepted upon receipt.

2. Upon acceptance of the depositor's agreement, the LATTA will establish the account of the named beneficiary.

F. Citizenship Requirements. Both the account owner and beneficiary must meet the following citizenship requirements:

1. be a United States citizen; or

2. be a permanent resident of the United States as defined by the U.S. Immigration and Naturalization Service (INS) and provide copies of INS documentation with the submission of the depositor's agreement.

G. Residency Requirements

1. On the date an account is opened, either the account owner or his designated beneficiary must be a Louisiana resident, as defined in §107 of these rules.

2. The LATTA may request documentation to clarify circumstances and formulate a decision that considers all facts relevant to residency.

H. Providing Personal Information

1. The account owner is required to disclose personal information in the depositor's agreement, including:

a. his Social Security number;

b. the designated beneficiary's Social Security number;

c. the beneficiary's date of birth;

d. the familial relationship between the account owner and the designated beneficiary;

e. the account owner's prior year's federal adjusted gross income amount as reported to the Internal Revenue Service.

2. By signing the depositor's agreement, the account owner provides written authorization for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purposes of verifying federal adjusted gross income.

3. By signing the depositor's agreement, the account owner certifies that both account owner and beneficiary are United States Citizens or permanent residents of the United States as defined by the U.S. Immigration and Naturalization Service (INS) and, if permanent residents have provided copies of INS documentation with the submission of the Application and Depositor's Agreement, and that either account owner or beneficiary is and has been a Louisiana resident for 12 consecutive months.

4. Social Security numbers will be used for purposes of federal income tax reporting and to access individual account information for administrative purposes [see §315].

I. First Disbursement Restriction. A minimum of one year must lapse between the date the account owner makes the first deposit opening an account and the first disbursement from the account to pay a beneficiary's qualified higher education expenses, which will normally be the beneficiary's projected scheduled date of first-enrollment in an eligible educational institution.

J. Number of Accounts for a Beneficiary. There is no limit on the number of education savings accounts that may be opened for one beneficiary by different account owners; however, the sum total of funds in all accounts for the same beneficiary may not exceed the maximum allowable account balance for that beneficiary and the sum of all education assistance accounts will be used to determine when these accounts are fully funded for the purpose of earning tuition assistance grants.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:1269 (July 1998).

§303. Education Scholarship Accounts (ESA)

Reserved.

§305. Deposits to Education Savings Accounts

A. Application Fee and Initial Deposit Amount

1. No application fee will be charged to participants applying for a START Program account directly to the LATTA.

2. Financial institutions may be authorized by the LATTA to offer assistance in establishing a START Program account.

3. An initial deposit is not required to open an education savings account; however, a deposit of at least \$10 in whole dollar amounts must be made within 60 days from the date on the letter of notification of approval of the account.

4. A lump sum deposit may not exceed the maximum allowable account balance [see §107].

B. Deposit Options

1. The account owner shall select one of the following deposit options during the completion of the depositor's agreement; however, the account owner may change the monthly deposit amount at any time and the payment method by notifying the LATTA:

- a. occasional lump sum payment(s);
- b. monthly payments made directly to the LATTA or to a LATTA-approved financial institution;
- c. automatic account debit, direct monthly transfer from the account owner's checking or savings account to the LATTA;
- d. payroll deduction, if available through the account owner's employer.

2. Account owners are encouraged to maintain a schedule of regular monthly deposits.

3. After acceptance of the depositor's agreement and annually thereafter, the LATTA will project the amount of the monthly deposit that will assure the account owner of sufficient savings to meet the qualified higher education expenses of the beneficiary at the scheduled date of enrollment at the selected institution, or the highest cost public institution if one was not preselected.

C. Limitations on Deposits

1. All deposits must be rendered in whole dollar amounts of at least \$10 and must be made in cash (check, money order, credit or debit card), defined as any of the deposit options listed in §305.B.1.

2. A minimum of \$100 must be deposited annually for the account to be considered for award of state tuition assistance grants.

3. Once the account becomes fully funded [see §107], it will no longer be considered for tuition assistance grants, regardless of the total amount of annual deposits made to the account.

4. Once the redemption value has reached or exceeded the maximum allowable account balance [see §107], principal deposits will no longer be accepted to the account.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998).

§307. Allocation of Tuition Assistance Grants

A. Tuition assistance grants are state-appropriated funds allocated to an education assistance account, on behalf of the beneficiary named in the account.

1. The grants are calculated based upon the account owner's annual federal adjusted gross income and total annual deposits of principal.

2. Although allocated to individual accounts, tuition assistance grants are state funds and shall be held in an escrow account maintained by the state treasurer until disbursed to pay tuition costs at an eligible institution as set forth in §307.G.

B. Providing Proof of Annual Federal Adjusted Gross Income

1. The account owner's annual federal adjusted gross income is used in computing the annual tuition assistance grant allocation.

2. To be eligible in any given year for a tuition assistance grant, the account owner of an education assistance account must:

- a. authorize the LATTA to access the account owner's state tax return filed with the Louisiana Department of Revenue; or
- b. provide the LATTA a copy of his federal income tax return filed for that year.

3. In completing the depositor's agreement, the account owner of an education assistance account authorizes the LATTA to access his records with the Louisiana Department of Revenue, for the purposes of verifying the account owner's federal adjusted gross income. In the event the account owner will not file his tax information with the Louisiana Department of Revenue by their May 15 deadline, he must provide the LATTA with:

- a. a copy of the form filed with the Internal Revenue Service (Form 1040, 1040A, 1040EZ, or 1040TEL); or
- b. a notarized statement as to why no income tax filing was required of the account owner.

4. To ensure timely allocation of tuition assistance grants to the account, the account owner should provide these documents prior to July 1 following the applicable tax year. Tuition assistance grants will not be allocated to an education assistance account until the LATTA has received verification of an account owner's federal adjusted gross income and interest on tuition assistance grants will not accrue to the benefit of an education assistance account until the LATTA has authorized the tuition assistance grant allocation to the account.

5. If the account owner fails to provide the required tax documents by December 31 of the year following the taxable year, the account shall not be allocated a tuition assistance grant for the year being considered.

C. Availability of Tuition Assistance Grants

1. The availability of tuition assistance grants to be allocated to education assistance accounts is subject to an appropriation by the Louisiana Legislature.

2. In the event that sufficient grants are not appropriated during any given year, the LATTA shall reduce tuition assistance grant rates, pro rata, as required to limit grants to the amount appropriated.

D. Tuition Assistance Grant Rates. The tuition assistance grant rates applicable to an education assistance account are determined by the federal adjusted gross income of the account owner, according to the following schedule:

Reported Federal Adjusted Gross Income	Tuition Assistance Grant Rate*
0 to \$14,999	14 percent
\$15,000 to \$29,999	12 percent
\$30,000 to \$44,999	10 percent
\$45,000 to \$59,999	8 percent
\$60,000 to \$74,999	6 percent

\$75,000 to \$99,999	4 percent
\$100,000 and above	0 percent

*Rates may be reduced pro rata, to limit grants to amounts appropriated by the Legislature.

E. Restrictions on Allocation of Tuition Assistance Grants to Education Assistance Accounts. The allocation of tuition assistance grants is limited to education assistance accounts which:

1. have principal deposits totaling at least \$100 annually;
2. have an account owner's reported federal adjusted gross income of less than \$100,000;
3. have a redemption value that is less than that of a fully funded account [see §107].

F. Frequency of Allocation of Tuition Assistance Grants to Education Assistance Accounts. Tuition assistance grants will be allocated annually and reported on the July 1 quarterly statement, or no later than the second statement following the account owner's required disclosure of his or her prior year's federal adjusted gross income.

G. Rate of Interest Earned on Tuition Assistance Grants. The rate of interest earned on tuition assistance grants shall be the rate of return earned on the Tuition Assistance Fund as reported by the state treasurer.

H. Restriction on Use of Tuition Assistance Grants

1. Tuition assistance grants, and any interest which may accrue thereon, may only be expended in payment of the beneficiary's tuition, or a portion thereof, at an eligible educational institution located in the state of Louisiana.

2. Tuition assistance grants may not be used at an out-of-state eligible educational institution, nor may they be used to pay for any qualified higher education expenses other than tuition.

3. Tuition assistance grants, although allocated to a beneficiary's account and reported on the account owner's quarterly statements, are assets of the state of Louisiana until expended to pay a beneficiary's tuition at an eligible Louisiana institution.

4. Tuition assistance grants are not the property of the account owner or beneficiary.

5. The amount of tuition assistance grants which may be expended during a given term is determined by the length of the program in which the beneficiary actually enrolls [see §309].

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998).

§309. Disbursement of Account Funds for Payment of Qualified Higher Education Expenses of a Beneficiary

A. Enrollment Notification

1. The designated beneficiary of an education assistance account must notify the LATA of the name and address of the institution at which he has enrolled using the Notice of Enrollment form.

2. The Notice of Enrollment form should be completed and returned as soon as the beneficiary has determined which

institution he will attend and must be returned at least 60 days prior to the beginning of the term for which benefits are to be utilized to ensure timely notification of available benefits to the beneficiary and the educational institution.

B. Statement of Available Funds. Upon receipt of the Notice of Enrollment, the LATA will forward to both the beneficiary and the institution:

1. a statement specifying the amount of tuition assistance grants which may be expended from the account for the specified academic term; and
2. the balance of the account which may be expended for any remaining qualified higher education expenses that may be billed by the institution.

C. Disbursement of Account Funds. Disbursements will be made first from Tuition Assistance Grant funds and second from principal deposits and earnings as set forth herein.

D. Rate of Expenditure of Tuition Assistance Grants

1. To determine the beneficiary's allowable rate of expenditure of tuition assistance grants from an education assistance account, the total of tuition assistance grants and interest earned thereon which has been allocated to the account is divided by the number of years, or the number of remaining years, in the program in which the beneficiary enrolled or is attending, meaning the number of years to complete an undergraduate certificate, associate degree, or bachelor's degree program as defined by the institution, not to exceed four years.

2. The amount so calculated or the actual tuition, whichever is less, is the amount of tuition assistance grants which may be expended for the academic year.

a. If the student is attending a semester institution, the amount shall be divided by two to determine the amount allowable each semester;

b. If attending a quarter institution the amount shall be divided by three to determine the amount allowable each quarter.

E. Expenditure of Principal and Earnings

1. The balance of principal and earned interest in an education savings account may be expended as authorized by the beneficiary to pay his qualified higher education expenses billed by the institution.

2. Distributions will be made from principal and earnings by applying the ratio that the aggregate amount of contributions to the account for the beneficiary bears to the total balance of the account. If the qualified higher education expenses of the beneficiary for the year are at least equal to the total balance of the account principal and interest, then the earnings in their entirety will be expended. If the qualified higher education expenses of the beneficiary are less than the total amount of the distribution, the qualified higher education expenses will be deemed to be paid from a pro rata share of both the principal and earning components of the account.

F. Payments to Eligible Educational Institutions

1. After the final date for adding or dropping courses without penalty, the institution may bill the START program for the qualified higher education expenses of the beneficiary, up to the amounts specified in the Statement of Available Funds.

2. Upon reconciliation of institutional billing statements, the LATTA will disburse funds from the appropriate accounts, consolidate and forward payment directly to the institution.

3. The LATTA will make all payments for qualified higher education expenses directly to the eligible educational institution.

4. No payments for qualified higher education expenses shall be disbursed directly to the beneficiary.

G. Withdrawal During the Academic Term

1. If the designated beneficiary of an education savings account withdraws from the institution prior to the end of the academic term and withdrawals from the education savings account have been used to pay all or part of his qualified higher education expenses for that term, an institutional refund to the education savings account may be required.

2. If any refund is due the beneficiary from the institution, a pro rata share of any refund of qualified higher education expenses, including tuition, equal to that portion of the qualified higher education expenses paid by disbursements from the education savings account, shall be made by the institution to the LATTA.

3. The LATTA will credit any refunded amount to the appropriate education savings account.

H. Receipt of Scholarships

1. If the designated beneficiary of an education savings account is the recipient of a scholarship, waiver of tuition, or similar subvention which cannot be converted into money by the beneficiary, the account owner or beneficiary may request a refund from the education savings account in the amount equal to the value of the scholarship, waiver or similar subvention up to the balance of principal and interest in the account.

2. Upon the institution's verification that the beneficiary received a scholarship, waiver or similar subvention, the LATTA will refund, without penalty, the amount to the account owner or the beneficiary, as designated in the depositor's agreement.

I. Advanced Enrollment. A beneficiary may enroll in an eligible educational institution prior to his scheduled date of first-enrollment [see §107] and utilize education savings account funds; however, a beneficiary may not utilize funds from an education savings account prior to one year from the date the account owner made the first deposit opening the account.

J. Part-Time Attendance and Nonconsecutive Enrollment. A beneficiary may utilize funds in an education savings account for enrollments which are nonconsecutive and for part-time attendance at an eligible educational institution. Room and board is only a qualified higher education expense for students who are enrolled at least half time.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:716 (June 1997), amended LR 24:1272 (July 1998).

§311. Termination and Refund of an Education Savings Account

A. Account Contributions. Contributions to an education savings account are voluntary.

B. Account Terminations

1. The account owner may terminate an account at any time.

2. The LATTA may terminate an account in accordance with §311.E.

3. The LATTA may terminate an account if no deposit of at least \$10 dollars in whole dollar amounts has been made within 60 days from the date on the letter of notification of approval of the account.

C. Refunds

1. A partial refund of an account may only be made as described in §311.F.3.

2. All other requests for refund will result in the refund of the redemption value and termination of the account.

D. Designation of a Refund Recipient

1. In the depositor's agreement, the account owner may designate the beneficiary to receive refunds from the account; however, the beneficiary, if so designated, must be enrolled in an eligible educational institution to be eligible for receipt of any such refund, otherwise the refund will be made directly to the account owner or his estate.

2. Refunds of interest earnings will be reported as income to the individual receiving the refund for both federal and state tax purposes.

3. In the event the beneficiary receives any refund of principal from the account, the tax consequence must be determined by the recipient.

E. Involuntary Termination of an Account with Penalty

1. The LATTA may terminate a depositor's agreement if it finds that the account owner or beneficiary provided false or misleading information [see §107].

2. All interest earnings on principal deposits may be withheld and forfeited, with only principal being refunded.

3. An individual who obtains program benefits by providing false or misleading information will be prosecuted to the full extent of the law.

F. Voluntary Termination of an Account without Penalty.

No penalty will be assessed for accounts which are terminated and fully refunded or partially refunded due to the following reasons:

1. the death of the beneficiary; the refund shall be equal to the redemption value of the account, less unexpended tuition assistance grants and interest thereon, and shall be made to the account owner;

2. the disability of the beneficiary; the refund shall be equal to the redemption value of the account, less unexpended tuition assistance grants and interest thereon, and shall be made to the account owner or the beneficiary, as designated in the depositor's agreement;

3. the beneficiary receives a scholarship, waiver of tuition, or similar subvention that the LATTA determines cannot be converted into money by the beneficiary, to the extent the amount of the refund does not exceed the amount of the scholarship, waiver of tuition, or similar subvention awarded to the beneficiary.

G. Voluntary Termination of an Account with Penalty

1. Refunds for any reason other than those specified in §311.E and F will be assessed a penalty of 10 percent of interest earned on principal deposits accumulated in said

account at the time of termination which has not been expended for qualified higher education expenses.

2. Reasons for voluntary account termination with penalty include, but are not limited to the following:

a. request by an account owner, an account owner's estate or legal successor, for reasons other than those specified in §311.E and F.

b. decision not to attend; upon notification in writing that the beneficiary has reached 18 years of age and has stated he does not intend to attend an institution of higher education;

c. upon notification in writing that the beneficiary has completed his educational program and does not plan to pursue further education.

3. Refunds made under the provisions of §311.G shall be equal to the redemption value of the education savings account at the time of the refund minus 10 percent of accumulated interest earned on principal deposits which has not been expended for qualified higher education expenses, and shall be made to the person designated in the depositor's agreement.

H. Effective Date of Account Termination. Account termination shall be effective at midnight on the last day of the calendar quarter in which the request for account termination is received. Accounts will be credited with interest earned on principal deposits through the effective date of the closure of the account.

I. Frequency of Refund Payments. Payment of refunds shall be made on or about the forty-fifth day of the calendar quarter following the quarter in which the account was terminated. Upon receipt of a request for an emergency refund [See § 107], the LATTA will verify the emergency and notify the account owner in writing that a refund of all principal deposited in an education savings account will be made within 10 days of the close of the calendar quarter in which the request for refund was received. The refund of all interest earned on the principal, accrued through the end of the calendar quarter, will be refunded as soon as possible thereafter.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998).

§313. Substitution, Assignment, and Transfer

A. Substitute Beneficiary. The beneficiary of an education assistance account may be changed to a substitute beneficiary provided the account owner completes a Beneficiary Substitution form and the following requirements are met:

1. the substitute beneficiary is a family member as defined under §107.

2. the substitute beneficiary meets the citizen/resident alien requirements of §301.F, and if the account owner is a nonresident of the state of Louisiana, the substitute beneficiary meets the applicable residency requirements [see §301.G];

3. if the original beneficiary is an independent student [see §107], meaning he is also the account owner of the account, the substitute beneficiary must be the spouse or child of the account owner.

B. Assignment or Transfer of Account Ownership. The

ownership of an education savings account, and all interest, rights and benefits associated with such, are nontransferable.

C. Changes to the Depositor's Agreement

1. The account owner may request changes to the depositor's agreement.

2. Changes must be requested in writing and be signed by the account owner.

3. Changes which are accepted will take effect as of the date the notice is received by the LATTA.

4. The LATTA shall not be liable for acting upon inaccurate or invalid data which was submitted by the account owner.

5. The account owner will be notified by the LATTA in writing of any changes affecting the depositor's agreement which result from changes in applicable federal and state statutes and rules.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998).

§315. Miscellaneous Provisions

A. Account Statements and Reports

1. The LATTA will forward to each account owner a quarterly statement of account which itemizes the:

a. date and amount of deposits and interest earned during the prior quarter;

b. total principal and interest accrued to the statement date; and

c. total tuition assistance grants and interest allocated to the account as of the statement date.

2. Tuition assistance grants shall be allocated annually and reported on the July 1 quarterly statement or no later than the second statement following the account owner's required disclosure of his or her prior year's federal adjusted gross income.

3. The account owner must report errors on the quarterly statement of account to the LATTA within 60 days from the date on the account statement or the statement will be deemed correct.

B. Tuition Assistance Grants. Tuition assistance grants will be allocated annually and reported on the July 1 statement, or no later than the second statement following the account owner's required disclosure of annual federal adjusted gross income to the LATTA.

C. Earned Interest

1. Interest earned on principal deposits during a calendar quarter will be credited to accounts and reported to account owners on or about the forty-fifth day of the calendar quarter following the quarter in which the interest was earned, beginning with the first full calendar quarter following the date of the first deposit.

2. The rate of interest earned shall be the rate of return earned on the fund as reported by the state treasurer and approved by the LATTA.

D. Refunded Amounts

1. Interest earned on an education savings account which is refunded to the account owner or beneficiary will be taxable for state and federal income tax purposes.

2. No later than January 31 of the year following the year

of the refund, the LATTA will furnish the State Department of Revenue, the Internal Revenue Service and the recipient of the refund an Internal Revenue Service Form 1099, or whatever form is appropriate according to applicable tax codes.

E. Maximum Allowable Account Balance Report

1. The account owner of an education savings account will be notified, in writing, of the maximum allowable account balance.

2. The maximum allowable account balance is based on the cost of qualified higher education expenses for the eligible educational institution designated on the depositor's agreement, projected to the date of the beneficiary's scheduled date of first enrollment.

3. If no eligible educational institution was designated on the depositor's agreement, the maximum allowable account balance will be projected based upon the highest cost in-state eligible public educational institution.

4. If the account owner changes the institution designated on the depositor's agreement, a revised maximum allowable account balance will be calculated and the account owner will be notified of any change.

5. The maximum allowable account balance is revised and reported to account owners annually, and is based upon changes in the cost projections for qualified higher education expenses.

F. Rule Changes. The LATTA reserves the right to amend the rules regulating the START Program's policies and procedures; however, any amendments to rules affecting participants will be published in accordance with the Administrative Procedure Act and distributed to account owners for public comment prior to the adoption of final rules.

G. Determination of Facts. The LATTA shall have sole discretion in making a determination of fact regarding the application of these rules.

H. Individual Accounts. The LATTA will maintain an individual account for each beneficiary, showing the redemption value of the account.

I. Confidentiality of Records. All records of the LATTA identifying account owners and designated beneficiaries of education savings accounts, amounts deposited, expended or refunded, are confidential and are not public records.

J. No Investment Direction. No account owner or beneficiary of an education savings account may direct the investment of funds credited to an account.

K. No Pledging of Interest as Security. No interest in an education savings account may be pledged as security for a loan.

L. Excess Funds

1. Principal deposits to an education savings account are no longer accepted once the account total reaches the maximum allowable account balance [see §305.C]; however, the principal and interest earned thereon may continue to earn interest and any tuition assistance grants allocated to the account may continue to accrue interest.

2. Funds in excess of the maximum allowable account balance may remain in the account and continue to accrue interest and may be expended to an eligible educational institution in accordance with §309, or upon termination of the account, will be refunded in accordance with §311.

M. Withdrawal of Funds. Funds may not be withdrawn from an education savings account except as set forth in §309 and §311.

N. NSF Procedure

1. A check received for deposit to an education savings account which is returned due to insufficient funds in the depositor's account on which the check is drawn, will be redeposited and processed a second time by the START Program's financial institution.

2. If the check is returned due to insufficient funds a second time, the check will be returned to the depositor.

O. Effect of a Change in Residency

1. On the date an account is opened, either the account owner or beneficiary must be a resident of the state of Louisiana [see §301.G]; however, if the account owner or beneficiary, or both, temporarily or permanently move to another state after the account is opened, they may continue participation in the program in accordance with the terms of the depositor's agreement.

2. The account owner may elect to terminate the account or request a "rollover" of account funds to a qualified state tuition program in the new state of residence. Only the principal deposited, and interest earned thereon, may be "rolled over."

3. Tuition assistance grants allocated to an education assistance account are not transferrable nor refundable.

P. Effect on Other Financial Aid. Participation in the START Program does not disqualify a student from participating in other federal, state or private student financial aid programs; however, depending upon the regulations which govern these other programs at the time of enrollment, the beneficiary may experience reduced eligibility for aid from these programs.

Q. Change in Projected School of Enrollment

1. The account owner may redesignate the beneficiary's projected school of enrollment, but not more than once annually.

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

R. Abandoned Accounts. Abandoned accounts will be defined and treated in accordance with R.S. 9:151 et seq., as amended, the Louisiana Uniform Unclaimed Property Act.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998).

Jack L. Guinn
Executive Director

9807#014

RULE

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

Comprehensive Toxic Air Pollutant Emission Control Program (LAC 33:III.5101, 5103, 5107, 5112)(AQ169)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.5101, 5103, 5107, 5112 (AQ169).

This rule revises text to clarify the air toxic regulations, to correct some misspelled words, to revise paperwork requirements, and to revise the release reporting requirements during control equipment bypassing events. The rule also delists caprolactam from the Toxic Air Pollutants Supplemental List because EPA delisted this compound from the Clean Air Act Section 112 list of Hazardous Air Pollutants; also, there are no sources in Louisiana reporting caprolactam.

The basis and rationale for this rule is to clarify the intent of the regulations and to reduce some of the reporting and paperwork requirements. The basis and rationale for delisting caprolactam are to mirror the federal regulations.

This rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

**Chapter 51. Comprehensive Toxic Air Pollutant
Emission Control Program**

Subchapter A. Applicability, Definitions, and General Provisions

§5101. Applicability

The provisions of this Subchapter apply to the owner or operator of any major source, as defined herein. The provisions of LAC 33:III.5105.A, 5107.A, B, and C, 5111.A.4, and 5113 apply to the owner or operator of any stationary source which was a major source upon promulgation of this Subchapter but which has achieved minor source status through reduction of emissions and reduction of potential to emit. Effective upon promulgation of applicable source category rules in accordance with R.S. 30:2060, the provisions of this Subchapter apply to the owner or operator of any minor source, if specified by such rules. The provisions of this Subchapter do not apply to the consumer use, in a duration and frequency intended by the manufacturer, of products obtained through retail commerce, or to activities conducted on residential property. The provisions of this Subchapter do not apply to the distribution or application of pesticides.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1362 (December 1992), LR 23:56 (January 1997), LR 24:1276 (July 1998).

§5103. Definitions, Units, and Abbreviations

A. The terms in this Subchapter are used as defined in LAC 33:III.111 except for those terms defined herein as follows:

* * *

[See Prior Text]

Major Source—any stationary source (including all emission points and units of such source located within a contiguous area and under common control) of air pollutants that emits, or has the potential to emit, in the aggregate, 10 tons per year or more of any toxic air pollutant listed in Table 51.1 or 25 tons per year or more of any combination of toxic air pollutants listed in Table 51.1.

* * *

[See Prior Text in A. Maximum Achievable Control Technology (MACT) - B.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1362 (December 1992), LR 23:57 (January 1997), LR 24:1276 (July 1998).

§5107. Reporting Requirements, Availability of Information, and Public Notice Provisions

* * *

[See Prior Text in A-B.1]

2. Emission Control Bypasses. Except as provided in Subsection B.6 of this Section, for any unauthorized discharge into the atmosphere of a toxic air pollutant as a result of bypassing an emission control device, where the emission control bypass was not the result of an upset, the owner or operator of the source shall notify the Air Quality Division of the bypass by telephone no later than 24 hours after the beginning of the bypass at (504) 765-0219. Where the emission control bypass was the result of an upset, the owner or operator shall comply with Subsection B.3 of this Section. In the event the Air Quality Division is unable for any reason(s) to receive the notification as required, the owner or operator shall notify the department at (504) 342-1234 within 24 hours after the beginning of the bypass.

* * *

[See Prior Text in B.3-D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:890 (July 1993), amended by the Office of the Secretary, LR 19:1022 (August 1993), repromulgated LR 19:1142 (September 1993), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:58 (January 1997), LR 24:1276 (July 1998).

§5112. Tables

Table 51.1 Minimum Emission Rates Toxic Air Pollutants			
CLASS I - Known and Probable Human Carcinogens			
Compounds	Cas Number	Synonyms	Minimum Emission Rate (Pounds/ Year)
* * *			
[See Prior Text in Acrylonitrile -Nickel (and compounds) [1]]			
Nickel (refinery dust) [1]	7440-02-0		25.0
* * *			
[See Prior Text in Propylene Oxide-Vinyl Chloride]			

CLASS II - Suspected Human Carcinogens and Known or Suspected Human Reproductive Toxins			
Compounds	Cas Number	Synonyms	Minimum Emission Rate (Pounds/Year)
* * *			
[See Prior Text in Acetaldehyde-Styrene]			
1, 1, 2, 2-Tetrachloroethane	79-34-5	Acetylene Tetrachloride	300.0
* * *			
[See Prior Text in Tetrachloroethylene-Trichloroethylene]			
Vinylidene Chloride	75-35-4	1, 1-dichloroethylene	1,500.0
* * *			
[See Prior Text in Xylene (mixed isomers) [9]-Zinc (and compounds) [1]]			

* * *

[See Prior Text in Table 51.1.Class III.Acute and Chronic (Non-Carcinogenic) Toxins-Table 51.2.Explanatory Note [12]]

Table 51.3 Louisiana Toxic Air Pollutants Supplemental List*			
Compounds	Cas Number	Class	Synonyms
* * *			
[See Prior Text in Acetamide-Bromoform]			
Calcium Cyanamide	156-62-7	III	
Captan	133-06-2	II	
* * *			
[See Prior Text in Carbaryl-1,3-Propane Sultone]			
beta-Propiolactone	57-57-8	II	2-oxetanone
* * *			
[See Prior Text in Propoxur-Vinyl Bromide]			

* * *

[See Prior Text in Explanatory Notes]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1331 (December 1995), amended LR 24:1277 (July 1998).

Gus Von Bodungen
Assistant Secretary

9807#020

RULE

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

Emissions (LAC 33:III.5116, 5122, and 5311)(AQ174*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the

secretary has amended the Air Quality Regulatory Division Regulations, LAC 33:III.5116, 5122, and 5311 (AQ174*).

This rule is identical to a federal regulation found in 40 CFR part 61, subparts L, N, O, and P; 40 CFR part 63, subparts L and EE; 62 FR 37720 (subparts U & JJJ) July 15, 1997, Number 135; 62 FR 42918 (subpart N) August 11, 1997, Number 154; 62 FR 52382 (subpart LL) October 7, 1997, Number 194; and 62 FR 64736 (subpart O) December 9, 1997, Number 236, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule incorporates by reference, into LAC 33:III.Chapters 51 and 53, additional federal regulations in 40 CFR parts 61 and 63, National Emission Standards for Hazardous Air Pollutants (NESHAP). These changes will expedite both the EPA approval process and the state implementation of delegation of authority. Authorization for EPA to delegate authority of that program to the state is established in the Clean Air Act Amendments of 1990, section 112. This rulemaking is applicable to stationary sources statewide. The state has received delegation of authority from EPA to implement NESHAP by "straight" delegation, which requires the state to incorporate into their regulations, rules as promulgated by EPA without change. Louisiana incorporated certain NESHAP regulations by reference on January 20, 1997. In agreement with the revised delegated authority mechanism and with EPA grant objectives, the department is now incorporating additional NESHAP regulations by reference. The basis and rationale for this rule are to mirror the federal regulations. If the rule is not adopted, it would be a hindrance to Louisiana's authority to implement the NESHAP Program. Louisiana would also fail to meet its 1997/98 EPA grant objectives related to this rule and to delegation revisions.

This rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S. 49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

**Chapter 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, revised as of July 1, 1997, and specifically listed in the following table are hereby incorporated by reference as they apply to sources in the State of Louisiana.

40 CFR 61	Subpart/Appendix Heading
* * *	
[See Prior text in Subpart A-J]	
Subpart L	National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants
Subpart N	National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants
Subpart O	National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters
Subpart P	National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities
* * *	
[See Prior Text in Subpart V-Appendix C]	

B. Corrective changes are made to 40 CFR part 61 subpart A, section 61.04(b)(T), to read as follows: State of Louisiana: Air Toxics Section Program Manager, Air Quality Regulatory Division, Louisiana Department of Environmental Quality, Box 82135, Baton Rouge, LA 70884-2135.

C. Copies of documents incorporated by reference in this Chapter are available for review at the Air Quality Division Information Center, Louisiana Department of Environmental Quality, or may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242.

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), LR 23:1658 (December 1997), amended LR 24:1278 (July 1998).

**Subchapter C. Incorporation by Reference of 40 CFR
Part 63 (National Standards for
Hazardous Air Pollutants for Source
Categories) as it Applies to Major
Sources**

**§5122. Incorporation by Reference of 40 CFR Part 63
(National 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, revised as of July 1, 1997, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the State of Louisiana.

40 CFR 63	Subpart/Appendix Heading
* * *	
[See Prior Text in Subpart A-I]	
Subpart L	National Emission Standards for Coke Oven Batteries
* * *	
[See Prior Text in M-DD]	

Subpart EE	National Emission Standards for Magnetic Tape Manufacturing Operations
* * *	
[See Prior Text in Subpart GG-Appendix D]	

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Federal Register* as promulgated from July 2, 1997, through December 31, 1997, and on April 15, 1998, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the State of Louisiana.

40 CFR 63	Federal Register Citation	Date Promulgated	Subpart/Appendix Heading
Subpart N	62 FR 42918	August 11, 1997	National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks
Subpart O	62 FR 64736	December 9, 1997	National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations
Subpart S	63 FR 18616	April 15, 1998	National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry [exclusive of paragraph 63.440(d)(1)]
Subpart U	62 FR 37720	July 15, 1997	National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins
Subpart LL	62 FR 52383	October 7, 1997	National Emission Standards for Hazardous Air Pollutants for Source Categories; National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants
Subpart JJJ	62 FR 37720	July 15, 1997	National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins
Appendix A	63 FR 18630	April 15, 1998	Test Methods

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).

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

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, revised as of July 1, 1997, and specifically listed in the following table are hereby incorporated by reference as they apply to area sources in the State of Louisiana.

40 CFR 63	Subpart/Appendix Heading
Subpart A	General Provisions
Subpart M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities
Subpart X	National Emission Standards for Hazardous Air Pollutants From Secondary Lead Smelting

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).

Gus Von Bodungen
Assistant Secretary

9807#022

RULE

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

Federal Transportation Conformity
(LAC 33:III.Chapter 14)(AQ172*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division Regulations, LAC 33:III.Chapter 14.Subchapter B (AQ172*).

This rule is identical to a federal regulation found in 40 CFR part 63, subpart A as amended in 62 FR 43802-43818, August 15, 1997, Number 158, which is applicable in

Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

The rule repeals the existing state transportation conformity rule with the exception of two sections. The rule incorporates by reference the federal requirements established in 40 CFR part 93, subpart A, that transportation plans, programs, and projects which are developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Act conform to state or federal implementation plans. The state is required to submit a State Implementation Plan (SIP) revision to EPA that includes an enforceable transportation conformity rule. Promulgation of this rule enables the state to submit the required transportation conformity SIP. The basis and rationale for this rule are to mirror the amendments to the federal transportation conformity regulations published on August 15, 1997 in 62 FR 43802-43818.

This rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S. 49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 14. Conformity

Subchapter B. Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved Under Title 23 U.S.C. or the Federal Transit Act

LAC 33:III.Chapter 14.Subchapter B is hereby repealed with the exception of LAC 33:III.1431. In addition, §1441 is being renumbered to §1434.

§1432. Incorporation by Reference

40 CFR part 93, subpart A, sections 101-128 found in the *Federal Register*, volume 62, No. 158, August 15, 1997, pages 43802-43818 are hereby incorporated by reference with the exclusion of sections 102(d) and 105.

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 24:1280 (July 1998).

§1433. Definitions

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1280 (July 1998).

§1434. Consultation (Previously §1441)

* * *

[See Prior Text in A-E]

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

HISTORICAL NOTE: Promulgated by the Department of

Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repromulgated LR 24:1280 (July 1998).

§1435. Applicability

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1280 (July 1998).

§1437. Priority

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1280 (July 1998).

§1439. Frequency of Conformity Determinations

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1280 (July 1998).

§1441. Consultation—moved to §1434

§1443. Content of Transportation Plans

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1280 (July 1998).

§1445. Relationship of Transportation Plan and TIP Conformity with the NEPA Process

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1280 (July 1998).

§1447. Fiscal Constraints for Transportation Plans and TIPs

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1280 (July 1998).

§1449. Criteria and Procedures for Determining Conformity of Transportation Plans, Programs, and Projects: General

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1280 (July 1998).

§1451. Criteria and Procedures: Latest Planning Assumptions

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

§1453. Criteria and Procedures: Latest Emissions Model

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

§1455. Criteria and Procedures: Consultation

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

§1457. Criteria and Procedures: Timely Implementation of TCMs

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

§1459. Criteria and Procedures: Currently Conforming Transportation Plan and TIP

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

§1461. Criteria and Procedures: Projects from a Plan and TIP

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

§1463. Criteria and Procedures: Localized CO and PM₁₀ Violations (Hot-Spots)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

§1465. Criteria and Procedures: Compliance with PM₁₀ Control Measures

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

§1467. Criteria and Procedures: Motor Vehicle Emissions Budget (Transportation Plan)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

§1469. Criteria and Procedures: Motor Vehicle Emissions Budget(s) (TIP)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

§1471. Criteria and Procedures: Motor Vehicle Emissions Budget (Project not from a Plan and TIP)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

§1473. Criteria and Procedures: Localized CO Violations (Hot-Spots) in the Interim Period

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

§1475. Criteria and Procedures: Interim Period Reductions in Ozone and CO Areas (Transportation Plan)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

§1477. Criteria and Procedures: Interim Period Reductions in Ozone and CO Areas (TIP)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

§1479. Criteria and Procedures: Interim Period Reductions for Ozone and CO Areas (Project not From a Plan and TIP)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

§1481. Criteria and Procedures: Interim Period Reductions for PM₁₀ and NO₂ Areas (Transportation Plan)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

§1483. Criteria and Procedures: Interim Period Reductions for PM₁₀ and NO₂ Areas (TIP)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

§1485. Criteria and Procedures: Interim Period Reductions for PM₁₀ and NO₂ Areas (Project not from a Plan and TIP)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

§1487. Transition from the Interim Period to the Control Strategy Period

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

§1489. Requirements for Adoption or Approval of Projects by Recipients of Funds Designated Under Title 23 U.S.C. or the Federal Transit Act

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

§1491. Procedures for Determining Regional Transportation-Related Emissions

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

§1493. Procedures for Determining Localized CO and PM₁₀ Concentrations (Hot-Spot Analysis)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

§1495. Using the Motor Vehicle Emissions Budget in the Applicable Implementation Plan (or Implementation Plan Submission)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

§1496. Enforceability of Design Concept and Scope and Project-Level Mitigation and Control Measures

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

§1497. Exempt Projects

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

§1498. Projects Exempt from Regional Emissions Analysis

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

§1499. Special Provisions for Nonattainment Areas Which are not Required to Demonstrate Reasonable Further Progress and Attainment

Repealed.

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

Gus Von Bodungen
 Assistant Secretary

9807#023

RULE

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

**Hazardous Air Pollutants for Source
 Categories (LAC 33:III.5122)(AQ160*)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.Chapter 51.Subchapter C (AQ160*).

This rule is identical to a federal law or regulation, 40 CFR Part 63, Subpart S, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the rule. Therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4). This rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This rule establishes Maximum Achievable Control Technology (MACT) for the pulp and paper industry and is identical to the federal rule 40 CFR Part 63, Subpart S adopted November 14, 1997. The federal rule has been published in the *Federal Register* as a final regulation. The *Federal Register* citation and date promulgated has been added to the rule. Per LAC 33:III.5105.B.8, a MACT determination for the pulp and paper industry source category was required to be established and proposed by December 20, 1997. The basis and rationale for this rule are to mirror the federal regulation 40 CFR Part 63, Subpart S, with the exception of 63.440(d)(1). Rulemaking to add this paragraph with a statutorily required compliance date will be initiated at a later date.

**Title 33
 ENVIRONMENTAL QUALITY**

Part III. Air

**Chapter 51. Comprehensive Toxic Air Pollutant
 Emission Control Program**

**Subchapter C. Incorporation by Reference of 40 CFR
 Part 63 (National Standards for
 Hazardous Air Pollutants for Source
 Categories) as it Applies to Major
 Sources**

**§5122. Incorporation by Reference of 40 CFR Part 63
 (National Standards for Hazardous Air
 Pollutants for Source Categories) as it Applies
 to Major Sources**

* * *

[See Prior Text in A]

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Federal Register* as promulgated from July 2, 1997, through December 31, 1997, and on April 15, 1998, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the State of Louisiana.

40 CFR 63	Federal Register Citation	Date Promulgated	Subpart/Appendix Heading
* * * [See Prior Text in Subpart N-O]			
Subpart S	63 FR 18616	April 15, 1998	National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry [exclusive of paragraph 63.440(d)(1)]
* * * [See Prior Text in Subpart U-JJJ]			
Appendix A	63 FR 18630	April 15, 1998	Test Methods

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 24:1283 (July 1998).

Gus Von Bodungen
Assistant Secretary

9807#025

RULE

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

New Stationary Sources
(LAC 33:III.Chapters 5, 15, 21, 23, 25, and 30)(AQ171*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division Regulations, LAC 33:III.Chapters 5, 15, 21, 23, 25, and 30 (AQ171*).

This rule is identical to a federal regulation found in 40 CFR Part 60, July 1, 1997, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule updates the reference to the Code of Federal Regulations (CFR) contained in LAC 33:III.Chapter 30 to those regulations published in 40 CFR part 60 in July 1997. This revision clarifies that all 40 CFR part 60 references that appear in LAC 33:III.Chapters 5, 15, 21, 23, 25, and 30 are as incorporated by reference in LAC 33:III.Chapter 30. Areas of state and federal authority are more clearly defined with this rule. The basis and rationale for this rule are to update the CFR reference and clarify the department's authority related to 40 CFR part 60 and proper reporting procedures.

This rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33 ENVIRONMENTAL QUALITY Part III. Air

Chapter 5. Permit Procedures §509. Prevention of Significant Deterioration

* * *

[See Prior Text in A-A.2]

B. Definitions. For the purpose of this Part the terms below shall have the meaning specified herein as follows:

* * *

[See Prior Text]

Reconstruction—will be presumed to have taken place where the fixed capital cost of the new component exceeds 50 percent of the fixed capital cost of a comparable entirely new source. Any final decision as to whether reconstruction has

occurred must be made in accordance with the provisions of 40 CFR 60.15(f).(1)-(3), as incorporated by reference in LAC 33:III.Chapter 30.

* * *

[See Prior Text in B. Secondary Emissions-S.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998).

Chapter 15. Emission Standards for Sulfur Dioxide §1503. Emission Limitations

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.

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/ton of 100 percent H₂SO₄ (2 kilograms/metric ton) and 0.15 pounds/ton of 100 percent H₂SO₄ (.075 kilograms/metric ton) respectively (three-hour averages). Emissions from existing units shall be limited as follows: SO₂—not more than 2000 ppm by volume (three-hour average); acid mist—not more than 0.5 pounds/ton of 100 percent H₂SO₄ (three-hour average).

B. Sulfur Recovery Plants—New and Existing. The emission of sulfur oxides calculated as sulfur dioxide from a new sulfur recovery plant that commences construction or modification after October 4, 1976, shall be limited to that specified in 40 CFR 60.104(a)(2), as incorporated by reference in LAC 33:III.Chapter 30. The emission of sulfur oxides calculated as sulfur dioxide from an existing plant shall be limited to a sulfur dioxide concentration of not more than 1,300 ppm by volume (three-hour average).

* * *

[See Prior Text in C-Table 4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, 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).

§1507. Exceptions

A. Start-up Provisions

1. A four-hour (continuous) start-up exemption from the emission limitations of LAC 33:III.1503.A may be authorized by the administrative authority for plants not subject to 40 CFR 60.82 and 60.83, as incorporated by reference in

LAC 33:III.Chapter 30, that have been shut down. A report, in writing, explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emission shall be submitted to the administrative authority within seven calendar days of the occurrence.

* * *

[See Prior Text in A.2-B]

1. A four-hour (continuous) exemption from emission limitations of LAC 33:III.1503.A may be extended by the administrative authority to plants not subject to 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emission shall be submitted to the administrative authority within seven calendar days of the occurrence.

* * *

[See Prior Text in B.2-C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:375 (April 1992), LR 23:1678 (December 1997), LR 24:1284 (July 1998).

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2108. Marine Vapor Recovery

* * *

[See Prior Text in A-E.1.b]

2. Vapor processing systems utilizing a flare stack to destruct the collected VOCs will be exempt from testing and must be designed and operated in accordance with 40 CFR 60.482-10(d), as incorporated by reference in LAC 33:III.Chapter 30.

* * *

[See Prior Text in E.3-H.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 14:704 (October 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:21 (January 1998), LR 24:1285 (July 1998).

§2122. Fugitive Emission Control for Ozone Nonattainment Areas

* * *

[See Prior Text in A-A.5]

6. Applicable facilities as defined in Subsection A.1 of this Section, which are subject to New Source Performance Standards, 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.Chapter 30, may become exempt from this Section by:

a. submitting a written notice to the administrative authority* informing them of the facility's request to become exempt from this Section and how 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.Chapter 30, will be administered to obtain that exemption;

b. applying 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.Chapter 30, to leak limitations specified in Subsection C.1 of this Section rather than 10,000 ppm as specified in 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.Chapter 30;

c. including connectors as leak sources monitored and repaired using the restrictions in 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.Chapter 30, which apply to valves; and

d. increasing monitoring frequency only when the leaking sources monitored and repaired using the restrictions in 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.Chapter 30, which apply to valves, equal or exceed 2 percent of the valves monitored at or above 10,000 ppm.

* * *

[See Prior Text in B-C.1.c]

d. Any pump or valve in heavy liquid service observed leaking by sight, sound, or smell shall be monitored within five days by the method specified in 40 CFR part 60, appendix A (Method 21), as incorporated by reference in LAC 33:III.Chapter 30. If the pump or valve is determined to be leaking in excess of the applicable limits given in this Subsection, it shall be repaired according to Subsection C.3 of this Section.

* * *

[See Prior Text in C.2-G.6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1102 (October 1994), repromulgated LR 20:1279 (November 1994), amended LR 22:1129 (November 1996), LR 22:1212 (December 1996), repromulgated LR 23:197 (February 1997), amended LR 23:1678 (December 1997), LR 24:22 (January 1998), LR 24:1285 (July 1998).

Subchapter B. Organic Solvents

§2123. Organic Solvents

* * *

[See Prior Text in A-E.5]

6. Performance test procedures described in 40 CFR 60.444, as incorporated by reference in LAC 33:III.Chapter 30;

* * *

[See Prior Text in E.7-G. Repair and Maintenance Thermoplastic Coating]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:23 (January 1998), LR 24:1285 (July 1998).

Subchapter J. Limiting Volatile Organic Compound (VOC) Emissions from Reactor Processes and Distillation Operations in the Synthetic Organic Chemical Manufacturing Industry (SOCMI)

§2147. Limiting VOC Emissions from SOCMI Reactor Processes and Distillation Operations

* * *

[See Prior Text in A-D.2]

3. The following methods in 40 CFR part 60, appendix A, as incorporated by reference in LAC 33:III.Chapter 30, shall be used to demonstrate compliance with the emission limit or percent reduction efficiency requirement listed in Subsection C.1.a of this Section.

* * *

[See Prior Text in D.3.a-e]

4. When a flare is used to comply with the control requirements of this Subchapter, the flare shall comply with the requirements of 40 CFR 60.18, as incorporated by reference in LAC 33:III.Chapter 30.

* * *

[See Prior Text in D.5-Figure 1]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:380 (April 1995), amended LR 22:1212 (December 1996), LR 23:1508 (November 1997), LR 23:1510 (November 1997), LR 23:1679 (December 1997), LR 24:1286 (July 1998).

§2160. Procedures

The following are Procedures F.1, F.2, G.1, G.2, L, and T to be used with the test protocols above:

* * *

[See Prior Text in A-A.4.c.i.(d)]

d. Alternative Procedure. The direct interface sampling and analysis procedure described in 40 CFR part 60, appendix A, Method 18, 7.2-7.2.5, as incorporated by reference in LAC 33:III.Chapter 30, may be used to determine the gas VOC concentration. The system must be designed to collect and analyze at least one sample every 10 minutes.

* * *

[See Prior Text in A.5-C.4.c.iv]

d. Alternative Procedure. The direct interface sampling and analysis procedure described in 40 CFR part 60, appendix A, Method 18, 7.2-7.2.5, as incorporated by reference in LAC 33:III.Chapter 30, may be used to determine the gas VOC concentration. The system must be designed to collect and analyze at least one sample every 10 minutes.

* * *

[See Prior Text in C.5-D.4.c.iv]

d. Alternative Procedure. The direct interface sampling and analysis procedure described in 40 CFR part 60, appendix A, Method 18, 7.2-7.2.5, as incorporated by

reference in LAC 33:III.Chapter 30, may be used to determine the gas VOC concentration. The system must be designed to collect and analyze at least one sample every 10 minutes.

* * *

[See Prior Text in D.5-F.6.b.iii]

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).

Chapter 23. Control of Emissions for Specific Industries¹

Subchapter D. Nitric Acid Industry

§2307. Emission Standards for the Nitric Acid Industry

* * *

[See Prior Text in A-C.1]

a. A four-hour start-up exemption from emission regulations may be authorized by the administrative authority for plants not subject to 40 CFR part 60, subpart G, as incorporated by reference in LAC 33:III.Chapter 30, which have been shut down. It is recognized that existing nitrogen oxide abatement equipment is effective only at normal operating temperatures. This provision allows the necessary time to bring up a facility from a cold start to near steady state condition. A report, in writing, explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emissions, shall be submitted to the administrative authority within seven calendar days of the occurrence.

* * *

[See Prior Text in C.1.b-C.2]

a. A four-hour exemption from emission regulations may be extended by the administrative authority to plants not subject to 40 CFR part 60, subpart G, as incorporated by reference in LAC 33:III.Chapter 30, where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emissions shall be submitted to the administrative authority within seven calendar days of the occurrence.

* * *

[See Prior Text in C.2.b-H.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1680 (December 1997), LR 24:1286 (July 1998).

Chapter 25. Miscellaneous Incineration Rules

Subchapter B. Biomedical Waste Incinerators

§2511. Standards of Performance for Biomedical Waste Incinerators

* * *

[See Prior Text in A-A.2]

B. Definitions. The words and terms used in this Subchapter are defined in LAC 33:III.Chapter 51, and LAC 33:III.111 and 40 CFR 60.2, as incorporated by reference

in LAC 33:III.Chapter 30, unless otherwise specifically defined as follows:

* * *

[See Prior Text in B. Antineoplastic Agents-L]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1098 (October 1994), amended LR 21:1081 (October 1995), LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998).

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference (IBR)

§3003. IBR 40 Code of Federal Regulations (CFR) Part 60

A. Except as modified in this Section, regulations at 40 CFR part 60 as revised July 1, 1997, and specified below in Tables 1 and 1.A are hereby incorporated by reference as they apply to the State of Louisiana.

Table 1. 40 CFR Part 60	
40 CFR Part 60 Subpart	Subpart Heading
* * * [See Prior Text in A-Ca]	
Cb	Emissions Guidelines and Compliance Schedules for Municipal Waste Combustors That Are Constructed on or Before December 19, 1995
Cc	Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills
Cd	Emissions Guidelines and Compliance Times for Sulfuric Acid Production Units
D	Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction Is Commenced After August 17, 1971
* * * [See Prior Text in Da-K]	
Ka	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984
Kb	Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984
* * * [See Prior Text in L-M]	
N	Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973
* * * [See Prior Text in Na-X]	
Y	Standards of Performance for Coal Preparation Plants
* * * [See Prior Text in Z-LL]	

MM	Standards of Performance for Automobile and Light-Duty Truck Surface Coating Operations
* * * [See Prior Text in NN-SS]	
TT	Standards of Performance for Metal Coil Surface Coating
* * * [See Prior Text in UU-MMM]	
NNN	Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations
* * * [See Prior Text in OOO-WWW]	

* * *

[See Prior Text in Table 1.A. 40 CFR Part 60 Appendices]

B. Final regulations published in the *Federal Register* on September 15, 1997, and specified below in Table 2, are hereby incorporated by reference as they apply to the State of Louisiana.

Table 2. 40 CFR Part 60			
40 CFR Part 60 Subpart/Appendix	Subpart Heading/Appendix	Federal Register Citation	Date Promulgated
Subpart A	General Provisions	62 FR 48379	September 15, 1997
* * * [See Prior Text in Subpart Ce-Subpart Ec]			

C. Corrective modification and clarification are made as follows:

1. whenever the referenced regulations (i.e., 40 CFR part 60) provide authority to “the Administrator,” such authority in accordance with these regulations shall be exercised by the assistant secretary of the Office of Air Quality and Radiation Protection subject to continuing supervision by the secretary, not withstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR part 60) to be provided to “the Administrator” shall be provided to the Office of Air Quality and Radiation Protection where the state is designated authority by EPA as “the Administrator” or shall be provided to the Office of Air Quality and Radiation Protection and EPA where EPA retains authority as “the Administrator”;

2. 40 CFR Part 60 Subpart A, Section 60.4 (b)(T), to read as follows: State of Louisiana: Program Administrator, Air Quality Division, Louisiana Department of Environmental Quality, Post Office Box 82135, Baton Rouge, Louisiana 70884-2135; and

3. the availability to the public of information provided to or otherwise obtained by the state under this Chapter shall be governed by LAC 33:I.501-509.

* * *

[See Prior Text in D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998).

Gus Von Bodungen
Assistant Secretary

9807#024

RULE

**Department of Environmental Quality
Office of the Secretary**

**Reportable Quantity List
(LAC 33:I.3931)(OS023A*)**

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.3931 (OS023A*).

This rule is identical to federal law or regulation, 40 CFR 117.3 (7/1/97 Edition) Table 117.3—Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and 40 CFR 302.4 (7/1/97 Edition) Table 302.4—List of Hazardous Substances and Reportable Quantities; Appendix A to Section 302.4—Sequential CAS Registry Number List of CERCLA Hazardous Substances, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the rule. Therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4). This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

The Reportable Quantity List for Pollutants will be replaced by an incorporation by reference to the corresponding federal lists. Incorporation of the federal lists will add an additional 361 compounds and adjust the reporting thresholds for 81 compounds in Louisiana's regulations. The amendments will make the state list more consistent with the federal EPA lists and simplify future revisions. Existing state reportable quantities that differ from the federal lists have been preserved in a Modifications or Exceptions table. EPA made significant amendments to the federal reportable quantity lists in June 1995 and May 1996. The department amended its reportable quantity list to add new listings and adjust existing listings. Public comment on the proposal included a suggestion to adopt federal reporting thresholds by reference. The basis and rationale for this rule are to assure the Reportable Quantity List

for Pollutants in Louisiana is equivalent to the EPA reportable quantity lists. Comparison of federal and state reportable quantity lists will be unnecessary for most pollutants. Eliminating the need to refer to multiple lists during a release will minimize confusion and delays that could worsen an emergency condition.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 2. Notification Regulations

**Chapter 39. Notification Regulations and Procedures
for Unauthorized Discharges**

**Subchapter E. Reportable Quantities for Notification
of Unauthorized Discharges**

§3931. Reportable Quantity List for Pollutants

A. Incorporation by Reference of Federal Regulations. Except as provided in Subsection B of this Section, the following federal reportable quantity lists are incorporated by reference:

1. 40 CFR 117.3 (7-1-97 Edition) Table 117.3—Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

2. 40 CFR 302.4 (7-1-97 Edition) Table 302.4—List of Hazardous Substances and Reportable Quantities; Appendix A to §302.4—Sequential CAS Registry Number List of CERCLA Hazardous Substances.

B. Modifications or Additions. The following table contains modifications to the federal reportable quantity lists incorporated by reference in Subsection A of this Section, as well as reportable quantities for additional pollutants.

Pollutant	CAS No. ¹	RCRA ² Waste Number	Pounds
Allyl chloride	107051		1000/10 [®]
Aniline	62533	U012	5000/1000 [®]
Antimony*	7440360		5000/100 [®]
Antimony Compounds	20008		100 [®]
Barium*	7440393		100 [®]
Barium compounds	20020		100 [®]
Benzenamine	62533	U012	5000/1000 [®]
Biphenyl	92524		100/100 [®]
1-Butanol	71363	U031	5000/1000 [®]
2-Butanone	78933	U159	5000/1000 [®]
n-Butyl alcohol	71363	U031	5000/1000 [®]
Carbonic dichloride	75445	P095	10/1 [®]
Carbonyl sulfide	463581		100/100 [®]
Chlorinated Dibenzo Furans, all isomers			1
Chlorine Dioxide	10049044		1
Chromium ³ *	7440473		5000/100 [®]
Chromium compounds	20064		100 [®]
Copper ³	7440508		5000/100 [®]

Copper Compounds	20086		100 [Ⓢ]
Cumene	98828	U055	5000/1000 [Ⓢ]
1,3-Dichloropropylene	542756		100 [Ⓢ]
Ethyl acrylate	140885	U113	1000/10 [Ⓢ]
Ethylene	74851		5000
Ethylene glycol	107211		5000/5000 [Ⓢ]
Glycol ethers **			100 [Ⓢ]
Hexane	110543		5000/1000 [Ⓢ]
Hydrochloric acid	7647010		5000/1000 [Ⓢ]
Hydrofluoric acid	7664393	U134	100/10 [Ⓢ]
Hydrogen chloride	7647010		5000/1000 [Ⓢ]
Hydrogen fluoride	7664393	U134	100/10 [Ⓢ]
1,3-Isobenzofurandione	85449	U190	5000/1000 [Ⓢ]
Manganese*	7439965		100 [Ⓢ]
Manganese compounds			100 [Ⓢ]
Methanethiol	74931	U153	100/25 [Ⓢ]
Methyl acrylate	96333		10 [Ⓢ]
Methyl ethyl ketone (MEK)	78933	U159	5000/1000 [Ⓢ]
Methyl isobutyl ketone	108101	U161	5000/1000 [Ⓢ]
Methylmercaptan	74931	U153	100/25 [Ⓢ]
Methyl methacrylate	80626	U162	1000/100 [Ⓢ]
4-Methyl-2-pentanone	108101	U161	5000/1000 [Ⓢ]
Methylene diphenyl isocyanate	101688		1000 [Ⓢ]
Nitric acid	7697372		1000/100 [Ⓢ]
Oil			1 barrel
Phthalic anhydride	85449	U190	5000/1000 [Ⓢ]
Polynuclear Aromatic Hydrocarbons ***			1
Produced Water			1 barrel
2-Propenoic acid, ethyl ester	140885	U113	1000/10 [Ⓢ]
2-Propenoic acid, 2-methyl-, methyl ester	80626	U162	1000/100 [Ⓢ]
Propionaldehyde	123386		1000/100 [Ⓢ]
Strontium sulfide	1314961	P107	100
Sweet Pipeline Gas (Methane/Ethane)			42000 (1,000,000 scf)
Thiomethanol	74931	U153	100/25 [Ⓢ]
Vinyl acetate	108054		5000/100 [Ⓢ]
Vinyl acetate monomer	108054		5000/100 [Ⓢ]
Volatile Organic Compounds not otherwise listed ⁴			5000

F003 The following spent non-halogenated solvents and the still bottoms from the recovery of these solvents:		F003	100
Methyl isobutyl ketone	108101		5000/1000 [Ⓢ]
n-Butyl alcohol	71363		5000/1000 [Ⓢ]
F005 The following spent non-halogenated solvents and the still bottoms from the recovery of these solvents:		F005	100
Methyl ethyl ketone	78933	U159	5000/1000 [Ⓢ]

* No reporting of releases into the ambient air of this metal is required if the diameter of the pieces of solid metal released is equal to or exceeds 100 micrometers (0.004 inches).

** The combined emissions of all glycol ethers shall be totaled to determine if a Reportable Quantity has been exceeded.

*** The combined emissions of all Polynuclear Aromatic Hydrocarbons (PAHs), excluding any PAHs otherwise listed, shall be totaled to determine if a Reportable Quantity has been exceeded.

¹ Chemical Abstracts Service Registry Number.

² Resource Conservation and Recovery Act of 1976, as amended.

³ Prompt notification of releases of massive forms of these substances is not required if the diameter of the pieces of the substance released is equal to or exceeds 100 micrometers (0.004 inches).

⁴ The combined emissions of all volatile organic compounds (VOCs), excluding any VOCs otherwise listed, shall be totaled to determine if a reportable quantity has been exceeded. VOC is defined in LAC 33:III.111 and exempt compounds are listed in LAC 33:III.2117.

[Ⓢ] The first RQ listed denotes the reportable quantities that will apply to unauthorized emissions based on total mass emitted into or onto all media within any consecutive 24-hour period. The second RQ listed denotes the reportable quantities that will apply to unauthorized emissions based on total mass emitted into the atmosphere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 30:2060(H), 30:2076(D), 30:2183(I), 30:2194(C), 30:2204(A), and 30:2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998).

Herman Robinson
Assistant Secretary

9807#021

RULE

Department of Environmental Quality Office of Waste Services

RCRA Updates (LAC 33:V.3105)(HW061*)

(Editor's Note: A portion of the following rule, which appeared on pages 654-687 of the April 20, 1998, Louisiana Register, is being republished to correct an error. The first See Prior Text explanation in §3105.Table 1 did not reflect the hazardous constituent A2213 that was added to the table in the

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental
Quality—Hazardous Waste
Chapter 31. Incinerators
§3105. Applicability

* * *
 [See Prior Text in A-E]

Table 1. Hazardous Constituents			
Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
* * * [See Prior Text in A2213 - Beryllium compounds, N.O.S. ¹]			
Bis (pentamethylene)- thiuram tetrasulfide	Piperidine, 1,1'-(tetrathiodicarbonthioyl)-bis-	120-54-7	U400
* * * [See Prior Text in Bromoacetone - Ziram]			

¹The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this table.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:318 (February 1998), LR 24:681 (April 1998), repromulgated LR 24:1290 (July 1998).

H.M. Strong
 Assistant Secretary

9807#026

RULE

Office of the Governor
Office of Rural Development

Projects, Funding and Application Process
 (LAC 4:VII.1901 and 1903)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and under the statutory authority of R.S. 3:311 et seq., the Rural Development Law, the Office of the Governor, Office of Rural Development adopts the following Rule, LAC 4:VII.1901 and 1903.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 19. Rural Development

§1901. Projects or Activities

A. The Office of Rural Development (ORD) provides financial assistance to local units of government throughout the state mitigating the effects of natural and economic emergencies and funding units of local government projects essential to community well-being.

B. Municipalities with populations of less than 35,000 and parishes with populations of less than 100,000 inhabitants will be considered rural for the purposes of this program.

C. The ORD applies the following guidelines to any project or activity funded.

1. All projects or activities funded must be related to rural development revitalization of a rural area, as defined in R.S. 3:313.

2. All funds shall be used to mitigate the rapid deterioration or assist the improvement of rural health, education, agribusiness, transportation, public facilities, tourism, infrastructure, or other defined purposes essential to the socioeconomic well-being and quality of life of Louisiana's rural areas.

3. Projects or activities should further enhance community services and broaden rural employment opportunities whenever possible.

4. Projects or activities should further the provisions of the Rural Development Law, R.S. 3:311-323.

5. At the start of each fiscal year, the executive director shall determine the equal funding level for all eligible

parishes, which includes villages, towns and cities within each parish as well as the parish government, based on the total amount budgeted as aid to local governments for rural development grants. The ORD shall make awards to all parishes throughout the year up to that equal funding level.

6. In cases where the eligibility of the parish is limited (parishes over 100,000 in population with eligible unincorporated areas or eligible municipalities), the parish shall be funded to the maximum of those eligible levels so long as the amount does not exceed the amount to which rural parishes are eligible.

7. Parish governments may request funding for projects that serve a parish-wide area or an unincorporated area within the parish. In cases where a parish's application is for funding a project that is not parish-wide in scope and is designed to benefit an incorporated area within the parish, the governing body of the parish must submit a resolution of support for the project stating that determination.

8. Municipal governments (villages, towns, cities) may not exceed the total funding level as outlined in the ORD application guidelines for rural development grant funds for any fiscal year by having a parish government submit an application to fund a project within the corporate limits of a village, town or city, unless the project is a service that extends beyond the corporate limits and serves an adjoining portion of the parish or unless the project is in response to an emergency officially declared as defined by state law (R.S. 38:2211 et seq.).

9. Grants approved by the ORD are expected to be completed within one year from the date of signing of the letter of commitment by the executive director of ORD. Extensions will be limited to two on each grant and an extension must be approved in writing by the executive director of ORD.

10. Rural development funds are not intended for salary only projects or ongoing salaried positions.

11. All invoices submitted for reimbursement must be in original form and marked by vendor to identify the invoice as expenses related to the approved ORD grant using the grant number furnished by ORD at the time of issuing the approved letter of commitment.

12. There shall not be awarded to any Local Governmental Agency (LGA), municipal or parish, an additional grant if a previous grant to that LGA is still open past a period of 24 months.

13. Changes or amendments to an application must be in writing and must be approved by the executive director in writing. If the change in an application is so great that it goes from one category to another, the request must include a new abstract and a new budget and must be accompanied by a new resolution of support from the LGA's governing body.

14. Multi-parish regional projects are not intended to be funded by ORD funds, however, if each parish in a region agrees to fund a project that meets the criteria of the ORD grants, with the agreement of its local governing authority and the legislative delegation of that region, the total amount of the regional grant shall be prorated to each parish in that region. The prorated amount shall come out of the total allocated to each participating parish for that fiscal year.

15. A regional project may be funded, provided the legislature appropriates funding for a named regional project above the general appropriation for the ORD. *Regional* is defined as more than one municipality collaborating on a project parish-wide or more than one parish.

D. The director of the ORD shall develop an application procedure satisfying the purposes, intentions, and the implications of regulatory provisions contained in the Rural Development Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:311 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Rural Development, LR 24:1290 (July 1998).

§1903. Application Process

A. Rural development applications are available from the Office of Rural Development to all who request them. All requests for information may be submitted via mail to the Office of Rural Development, Box 94004, Baton Rouge, LA 70804-9004.

B. Municipalities, parish governments, school boards, other units of government, and special districts are eligible to apply for rural development funds. All applicants must be authorized by law to perform governmental functions and be provided governmental body support, and must be subject to state audit.

C. Current population figures are used to determine the eligibility for funding of municipalities based on appropriations by the legislature. The funding is outlined in the ORD application guidelines for rural development grant funds.

D. Funds from this program cannot be used to pay consulting fees charged to a unit of government for the preparation of the application, for administrative costs by agents of the project sponsor or any third party, or for previously created debt.

E. Grant recipients are required to maintain an audit trail verifying that all funds received under this program were used to fulfill the criteria for funding.

F. Payment shall be made to the Local Governmental Agency which is the project sponsor upon production of invoices and approval of the LGA's request for payment by ORD, according to the agreed terms of a signed and executed letter of commitment.

G. Project funds shall be spent only for the project as described in the grant application designated by the same number as the project award. Changes in the project description and extension of the agreed time for completion must be made in writing, subject to the approval of ORD.

H. Use of grant funds for any project other than that described in the grant application or amended application, or in violation of any terms of the application or letter of commitment/agreement, will be grounds for ORD to terminate the agreement and revoke the funds for the project.

I. All invoices related to the project are the responsibility of the LGA project sponsor, and must be submitted to and approved by ORD before the funds will be released to the LGA, which remains responsible for payment to its vendors in the project.

J. The LGA as project sponsor will agree to hold harmless the State of Louisiana, Office of the Governor, and Office of

Rural Development as a term and condition of the letter of commitment/agreement.

K. ORD will de-obligate funds from any unexpended amount, whether by failure to start a project in the agreed upon time frame in the letter of commitment or by unexpended funds in an officially closed project, and from revoked grant awards.

L. Failure of the LGA project sponsor to abide by any article of the local agency assurances section of the grant application or of the letter of commitment/agreement, including state audit procedures, federal and state laws, state ethical rules and policy guidelines of the ORD, shall result in revocation of the grant award and the responsibility of the LGA project sponsor to repay project funds released to it by ORD up to the full amount of the grant award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:311 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Rural Development, LR 24:1291 (July 1998).

Larry Kinlaw
Executive Director

9807#016

RULE

Department of Health and Hospitals Board of Dentistry

Comprehensive Rule Revisions
(LAC 46:XXXIII.710 and 714)

Editor's Note: The following Sections concerning the administration of local anesthesia by hygienists were part of the notice of intent published in the January 1998 *Louisiana Register*, pages 208 and 209.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 7. Dental Hygienists

§710. Administration of Local Anesthesia for Dental Purposes

A. After satisfying the board of his or her competence to administer local anesthesia, a licensed dental hygienist may qualify for a special endorsement to administer local anesthesia for dental procedures under the direct on-premises supervision of a licensed dentist.

B. Competence to administer local anesthesia must be demonstrated to the board by successful completion of a course of study of at least 72 hours of instruction in a formal program in administration of local anesthesia sponsored by an institutional program accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the board. A certificate of course completion and a copy of the syllabus must be submitted to the board for approval. The course must include didactic studies and clinical experience in the administration of long buccal, maxillary and mandibular infiltration anesthesia, mental block anesthesia, lingual nerve block, inferior alveolar nerve block anesthesia,

medical history and physical evaluation of the patient, and the prevention, diagnosis, and management of medical emergencies which can be encountered in the dental patient. A minimum of 20 satisfactory injections is required.

C. The curriculum for required study must include, but is not necessarily limited to:

1. medical history evaluation procedures;
2. physical evaluation;
3. CPR certification in accordance with board rules;
4. understanding pharmacology of local anesthesia and vasoconstrictors;
5. local anesthesia, didactic, and clinical course:
 - a. anatomy of head, neck, and oral cavity as it relates to administering local anesthetic agents;
 - b. indications and contraindications for administration of local anesthesia;
 - c. selection and preparation of the armamentaria and record keeping for administering various local anesthetic agents;
 - d. medical and legal management complications;
 - e. recognition and management of post-injection complications and management of reactions to injections;
 - f. proper infection control techniques with regard to local anesthesia and proper disposal of sharps;
 - g. methods of administering local anesthetic agents with emphasis on:
 - i. technique;
 - (a). aspiration;
 - (b). slow injection; and
 - ii. minimum effective dosage.
6. medical emergency, prevention, diagnosis, and management.

D. Upon satisfactory completion of the application process, the applicant must pass the board-administered written examination in the administration of local anesthesia.

E. A dental hygienist who has been licensed and trained in a course equivalent to §710.B and C to administer local anesthesia in another state may qualify, at the discretion of the board, to take the examination by presenting written documentation of such licensure and training to the board and documentation of experience in the past two years and by gaining approval of the board through the interview process.

F. A dental hygienist can maintain local anesthesia privileges by administering at least 50 patient visits using local anesthetic injection during the previous five years, documented by a log book to include date of visit, patient name, supervising dentist, purpose of injection, and any adverse reaction or complication. Otherwise, he or she must satisfy the board of competence to administer local anesthesia by successfully completing a course of 72 hours of studies that satisfies the curriculum requirements of §710.

G. A licensed dental hygienist who has demonstrated competence to the satisfaction of the board may qualify for a special endorsement and may undertake the administration of local anesthesia by:

1. successfully completing the written examination administered by the board;
2. substantiating the adequacy of training; and
3. limiting administration of local anesthesia as provided by these rules.

H. The endorsement shall be for a period of five years and renewable with documentation of experience as described in §710.F.

I. Any hygienist who is not certified by the state of Louisiana in local anesthesia and who performs such a procedure is subject to severe sanctions up to and including revocation of his/her license. The dentist under whose instructions he/she performed the procedure will be subject to severe sanctions up to and including revocation of the dentist's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1292 (July 1998).

§714. Administration of Local and/or Block Anesthesia by Dental Hygienists Licensed by Credentials

Dental hygienists who are licensed in the state of Louisiana by credentials and who have been certified to administer long buccal, maxillary and mandibular infiltration anesthesia, mental block anesthesia, lingual nerve block, and inferior alveolar nerve block anesthesia, in a state of previous licensure, and who wish to administer long buccal, maxillary and mandibular infiltration anesthesia, mental block anesthesia, lingual nerve block, and inferior alveolar nerve block anesthesia in Louisiana, must have gained their certification by successfully completing a course in the administration of anesthesia equivalent to or greater than the course required of Louisiana dental hygienists as set forth in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1293 (July 1998).

C. Barry Ogden
Executive Director

9807#067

RULE

**Department of Health and Hospitals
Board of Nursing**

Comprehensive Rule Revisions
(LAC 46:XLVII.Chapters 31- 43)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (board), pursuant to the authority vested in the board by R.S. 37:911 et seq., has amended LAC 46:XLVII.Chapters 31 - 43, pertaining to nursing practice, employment of unlicensed persons, nursing function delegation, Hepatitis B and HIV viruses transmission prevention, educational programs, disciplinary proceedings, and financial disclosure.

The full text of these rules may be obtained by contacting the Office of the State Register, 1051 North Third Street,

Baton Rouge, LA 70802, (504)342-5015 or by contacting the State Board of Nursing, 3510 North Causeway Boulevard, Suite 501, Metairie, LA 70002, (504)838-5396.

Barbara L. Morvant, RN, MN
Executive Director

9807#037

RULE

**Department of Health and Hospitals
Board of Veterinary Medicine**

Preceptorship Program
(LAC 46:LXXXV.1103)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.1103 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 11. Preceptorship Program

§1103. Definitions

* * *

Preceptorship Program—a preceptorship program approved by the Louisiana Board of Veterinary Medicine which involves no less than five nor more than 10 weeks.

1. - 4. ...

5. Changes in the program that are effective on or after May 1, 1998, shall not apply to students graduating in calendar years prior to 2000.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 19:208 (February 1993), LR 23:968 (August 1997), LR 24:1293 (July 1998).

Charles B. Mann
Executive Director

9807#055

RULE

**Department of Health and Hospitals
Licensed Professional Counselors Board of Examiners**

Licensure (LAC 46:LX.703, 705, and 801)

The Licensed Professional Counselors Board of Examiners, under authority of the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101-1115, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has

amended the following with regard to licensing and renewal requirements.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LX. Licensed Professional Counselors Board of
Examiners**

Chapter 7. Requirements for Licensure

§703. Licensing Requirements

A.1. - 5. ...

6. can document a minimum of 3,000 hours of post-master's experience in professional mental health counseling under the clinical supervision of a board-approved supervisor, with said supervision occurring over a period of no less than two years and not more than seven years from the original date such supervision was approved. Five hundred hours of supervised experience may be gained for each 30 graduate semester hours earned beyond the required master's degree, provided that such hours are clearly related to the field of mental health counseling, are earned from a regionally accredited institution, and are acceptable to the board provided that in no case the applicant has less than 2,000 hours of board-approved supervised experience within the aforementioned time limits;

7. ...

8. has received a graduate degree, the substance of which is professional mental health counseling in content from a regionally accredited institution of higher education offering a master's and/or doctoral program in counseling that is approved by the board and has accumulated at least 48 graduate semester hours as part of the graduate degree plan containing the eight required areas, the supervised mental health practicum and supervised internship in mental health counseling (as defined by rules adopted by the board listed under Chapter 5), which shall not be interpreted to exclude post-graduate course work in mental health counseling, as part of the degree plan containing 48 graduate hours including eight content areas, practicum and internship approved by the Licensed Professional Counselors (LPC) Board.

9. has provided to the board a Declaration of Practices and Procedures, with the content being subject to board review and approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Licensed Professional Counselors Board of Examiners, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 18:269 (March 1992), LR 22:102 (February 1996), LR 24:1294 (July 1998).

§705. Supervision Experience

A. ...

1. ...

2. Pursuant to R.S. 37:1107(A), an applicant for licensure must document a minimum of 3,000 hours of

post-master's experience in professional mental health counseling under the clinical supervision of a board-approved supervisor, with said supervision occurring over a period of no less than two years and not more than seven years from the original date such supervision was approved. Five hundred hours of supervised experience may be gained for each 30 graduate semester hours earned beyond the required master's degree provided that such hours are clearly related to the field of mental health counseling, are earned from a regionally accredited institution, and are acceptable to the board, provided that in no case the applicant has less than 2,000 hours of board-approved supervised experience within the aforementioned time limits. Only those applicants already receiving board-approved supervision prior to June 30, 1998 are exempt from the aforementioned time allowance.

A.2.a. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 18:269 (March 1992), amended LR 21:466 (May 1995), LR 22:102 (February 1996), LR 24:1294 (July 1998).

Chapter 8. Renewal of License

§801. Renewal

A licensed professional counselor shall renew his license every two years in the month of June by meeting the requirement that 25 clock hours of continuing education be obtained prior to each renewal date every two years in an area of professional mental health counseling as approved by the board and by paying a renewal fee. The licensee should submit a declaration statement only if there has been a change in area of expertise, with the content being subject to board review and approval. The board, at its discretion, may require the licensee to present satisfactory evidence supporting any changes in areas of expertise noted in the declaration statement. The chairman shall issue a document renewing the license for a term of two years. The license of any mental health counselor who fails to have this license renewed biannually during the month of June shall lapse; however, the failure to renew said license shall not deprive said counselor the right of renewal thereafter. A lapsed license may be renewed within a period of two years after the expired renewal date upon payment of all fees in arrears and presentation of evidence of completion of the continuing education requirement. Application for renewal after two years from the date of expiration will not be considered for renewal; the individual must apply under the current licensure guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 18:271 (March 1992), amended LR 22:103 (February 1996), LR 24:1294 (July 1998).

Gary S. Grand
Chairman

9807#073

RULE

Louisiana State University Medical Center Office of the Chancellor

Tumor Registry (LAC 48:V.8501-8513)

Under the authority of R.S. 40:1299.80 et seq. and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. as amended, the Chancellor of the Louisiana State University Agricultural and Mechanical College, Louisiana State University Medical School amends a rule to clarify the cancer-reporting responsibilities of medical care professionals and institutions; provide for intervention in cases of noncompliance; reinforce the confidentiality requirements to protect participants from civil liability; authorize the exchange of cancer incidence data with other states; and provide for related matters by supplanting LAC 48:V.Chapter 85 in its entirety with the following.

Title 48

PUBLIC HEALTH—GENERAL

Part V. Preventive Health Services

Subpart 31. Tumor Registry

Chapter 85. Statewide Tumor Registry Program

§8501. Purpose

Louisiana R.S. 40:1299.80 et seq. established a “statewide registry program for reporting cancer cases for the purpose of gathering statistical data to aid in the assessment of the presence, extent, possible causes of specific cancers, and other related aspects of cancer . . . in Louisiana.” In carrying out this mandate, the Louisiana Tumor Registry collaborates with the National Cancer Institute, the Centers for Disease Control and Prevention, and other medical research institutions and public health agencies. The importance of cancer registration was reinforced by the passage of federal legislation in 1992 (Public Law 102-515) establishing the National Program of Cancer Registries, in which Louisiana participates. Acts Number 1197 of the 1995 Louisiana Legislative Session clarified the cancer-reporting responsibilities of medical care professionals and institutions, provided for intervention in cases of noncompliance, reinforced the confidentiality requirements to protect participants from civil liability, authorized the exchange of cancer incidence data with other states, and provided for related matters. Act Number 1138 of the 1995 Session transferred the Louisiana Tumor Registry Program and the Louisiana Cancer and Lung Trust Fund Board to the Board of Supervisors of the Louisiana State University Agricultural and Mechanical College, to be administered by the LSU Medical School at New Orleans. “Louisiana State University Medical Center” shall replace “office of public health” or “office” in R.S. 40:1299.80 et seq. and in Act 1197 of the 1995 Regular Session. “Chancellor of the LSU Medical Center or the chancellor’s designated representative” shall replace “Secretary” in Act Number 1197.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State

University Medical Center, Office of the Chancellor, LR 24:1295 (July 1998).

§8503. Definitions

Confidential Data—shall include any information that pertains to an individual case, as distinguished from group, aggregate, or tabular data. Confidential, case-specific data include, but are not limited to, primary or potential human identifiers.

Director—the director of the Louisiana Tumor Registry, who is appointed by the Chancellor of LSU Medical Center.

Follow-Up Information—information that is used to determine survival rates for various types of cancer. The information consists of the patient name, case number, vital status, and date of last contact with the patient.

Health Care Provider—every licensed health care facility and licensed health care provider, as defined in R.S. 40:1299.41(A)(1), in the state of Louisiana.

Louisiana Tumor Registry (LTR)—the program in the LSU Medical Center (LSUMC) that administers a population-based statewide cancer registry.

Regional Tumor Registry—an organization that has contracted with the *Louisiana Tumor Registry* to provide in its region such services as: screening medical records and abstracting data on all cancer cases; compiling and editing data; performing quality assurance programs; training personnel from hospital and other facilities; and furnishing abstracts of acceptable quality to the LTR from all medical facilities and health care providers in the parishes assigned to that region.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1295 (July 1998).

§8505. Participation in the Program

Responsibility for Reporting. All hospitals, pathology laboratories, radiation centers, physicians, dermatology offices, nursing homes, and other licensed health care facilities and providers, as defined in R.S. 40:1299.41(A)(1), shall participate in the cancer registry program defined by R.S. 40:1299:80 et seq. Each patient who receives screening, diagnostic or therapeutic services for cancer shall be registered, and the LTR shall have physical access to all records that would identify cases of cancer or would describe a patient’s disease, treatment, or medical status. Patients admitted to a Louisiana hospital shall be registered through the hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1295 (July 1998).

§8507. Cancer Case Reporting

A. Reportable Cancer Cases. Any newly diagnosed in situ or invasive neoplasm is considered a reportable diagnosis (these bear a behavior code of “2” or “3” in the *International*

Classification of Diseases for Oncology, 2nd edition, published in 1992 by the World Health Organization). The two exceptions are:

1. carcinoma in situ of the cervix; and
2. basal cell and squamous cell carcinomas of the skin, unless they occur on the lips or on the genital organs. If a patient subsequently develops a new primary cancer, it shall be reported separately.

B. Format for Reporting. The format for reporting, the required codes, and the standards for completeness and quality are described in the *Standards for Cancer Registries*, compiled by the North American Association of Central Cancer Registries. Text is required for specified variables and shall be adequate to permit quality assurance evaluation of coding decisions. Abstracts shall be sent to the designated regional office, the address for which can be obtained from the Louisiana Tumor Registry.

C. Variables to be Reported

1. The standardized report of cancer shall include the following information as a minimum. Those followed by an asterisk must include enough text to permit quality assurance evaluation of coding decisions.

Report Source	
a.	reporting facility/physician*
b.	date of admission/first contact
c.	hospital medical record number
d.	hospital accession number
e.	class of case: analytic/non-analytic
f.	type of reporting source
g.	institutions referred to and from
h.	physicians: managing, surgeon, oncologist, follow-up, referring, other

Patient Information	
i.	patient's name: first, last, middle, maiden, alias, prefix and/or suffix
j.	date and place of birth
k.	age at diagnosis
l.	sex
m.	race
n.	address at diagnosis: number and street, city, parish, state, zip code
o.	telephone number
p.	Social Security number
q.	marital status
r.	religion
s.	Spanish/Hispanic origin

t.	usual occupation *
u.	usual industry *
v.	tobacco history
w.	family and patient history of cancer

Description of Disease	
x.	date of first diagnosis
y.	primary site*
z.	diagnostic procedures:* physical exam, x-rays, scans, scopes, lab tests, operative, pathology
aa.	type of diagnostic confirmation *
bb.	laterality
cc.	histology *
dd.	neoplasm behavior
ee.	grade/differentiation
ff.	tumor size
gg.	nodes examined
hh.	tumor extension and lymph node involvement
ii.	sites of distant metastasis
jj.	extent of disease/summary stage *
kk.	coding systems for site, morphology and treatment
ll.	sequence number at the facility
mm.	tumor markers (prostate, breast, testis)

Treatment	
nn.	dates of first course of treatment
oo.	descriptions and summaries of treatments:* surgery, chemotherapy, hormone, biological response modification, radiation (including to central nervous system), other
pp.	reason for no treatment, if applicable
qq.	surgery/radiation sequence
rr.	reconstructive surgery, immediate (breast only)

Survival	
ss.	date of inpatient discharge
tt.	name and address of parent/spouse/follow-up contact
uu.	date of last contact
vv.	place (state), date and cause of death

ww.	death certificate file number
xx.	ICD revision

Administration	
yy.	abstractor's initials
zz.	date case put in file to transmit to LTR
aaa.	remarks *

* must include enough text to permit quality assurance evaluation of coding decisions.

2. The report of cancer shall include the listed demographic, diagnostic, and treatment information as a minimum as required by U.S. Public Law 102-515. Standard variables and codes established by the North American Association of Central Cancer Registries (NAACCR) shall be used. Additional variables may be added to the list as they are needed to study Louisiana-specific cancer questions or as they are recommended by the NAACCR. Louisiana regional offices may require that other data, including follow-up information, be abstracted.

D. Deadline for Reporting. Each cancer case shall be reported to the designated regional registry within six months of diagnosis.

E. Failure to Report. If a facility fails to provide the required information in the format specified by the Louisiana Tumor Registry or if the data are of unacceptable quality, personnel from the Louisiana Tumor Registry may enter the facility to screen and abstract the information. In these cases, the facility shall reimburse the Louisiana Tumor Registry or its contractor the actual cost of screening, abstracting, coding and editing, which is \$35 per case.

F. Quality Assurance. Staff members from the central registry and the regional registries shall perform periodic quality assurance studies at all reporting facilities. These studies shall include:

1. rescreening medical records, including those in hospital pathology and radiology departments and in freestanding facilities, to ensure that all cancer cases have been accessioned; and

2. reabstracting the records of cancer patients to ensure that all data have been transcribed and coded correctly. Reporting facilities shall assist LTR staff by compiling a list of cancer patients, if computer facilities permit, and obtaining the necessary medical records for its departments and patients. The LTR and the regional registries shall also offer tumor registrar training for hospital personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1295 (July 1998).

§8509. Confidentiality

A. Revised Statutes 40:1299.85 and 1299.87 of Act 1995, Number 1197, strengthen and enforce previous legislative provisions to ensure the confidentiality of cancer patients,

health care providers, and health care facilities. These laws protect licensed health care providers and facilities that participate in the cancer registration program from liability, and they also specify confidentiality requirements for the expanded activities of the Louisiana Tumor Registry.

B. LTR Responsibilities. The Chancellor shall take strict measures to ensure that all case-specific information is treated as confidential and privileged. All employees or consultants, including auditors, of the Louisiana Tumor Registry and of its regional offices shall sign an "Agreement to Maintain Confidentiality of Data," and these agreements shall be kept on file. An employee who discloses confidential information through gross negligence or willful misconduct is subject to penalty under the law.

C. Protection of Report Sources. Health care providers who disclose cancer morbidity or mortality information to the Louisiana Tumor Registry or its employees in conformity with the law shall not be subject to actions for damages. Their licenses shall not be denied, suspended, or revoked for good-faith release of confidential information to the Louisiana Tumor Registry.

D. Protection of Case-Specific Data from Obtained by Special Morbidity and Mortality Studies and Other Research Studies

1. Louisiana R.S. 40:3.1(A) through (H) and R.S. 40:1299.87(F) state that all confidential data such as records of interviews, questionnaires, reports, statements, notes, and memoranda that are procured or prepared by employees or agents of the Office of Public Health shall be used solely for statistical, scientific and medical research purposes. This applies also to data procured by any other person, agency, or organization, including public or private colleges and universities acting jointly with the Office of Public Health in connection with special cancer studies, and health research investigations. No case-specific data shall be available for subpoena, nor shall they be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall such records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

2. No part of the confidential data such as records of interviews, questionnaires, reports, statements, notes, and memoranda that procured by employees or agents of the Louisiana Tumor Registry or persons, agencies or organizations, including public or private colleges and universities acting in collaboration with the Louisiana Tumor Registry in special cancer studies, shall be available for subpoena. These data shall not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall such records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1297 (July 1998).

§8511. Release of Information

A. Reports published by the Louisiana Tumor Registry shall include aggregate, not case-specific, data. Information that would potentially identify a health care provider shall not be published.

B. Follow-up Information. Follow-up information about a patient shall be provided, if requested, to the physician or medical facility that originally reported the case.

C. Collaboration with Federal and State Public Health Agencies. The LTR is authorized to collaborate with the National Cancer Institute and the Centers for Disease Control and Prevention in providing cancer incidence statistics and participating in cancer studies. In addition, it shall work closely with the Louisiana Office of Public Health (LOPH) in investigating cancer clusters and other cancer-related issues and in evaluating programs. Because the LTR data are an integral part of the LOPH cancer prevention and control programs, the use of Registry data by public health officials shall be considered an in-house activity and shall be processed expeditiously. Each LOPH request for case-specific data for research or public health purposes will require approval by the LOPH Institutional Review Board. In addition, the LOPH must comply with LTR confidentiality standards.

D. Requests for Case-Specific LTR Incidence Data. These data may be released to qualified persons or organizations for the purposes of cancer prevention, control, and research. Such data do not include confidential information collected for special morbidity and mortality studies or other research projects. Studies utilizing registry cancer data may investigate the causes of cancer, evaluate patient care and preventive services, or carry out any other clinical, epidemiological, or other cancer research, including the role of biomarkers in morbidity and survival.

1. Requests from outside researchers for case-specific LTR incidence data, including data linkages, shall be reviewed and approved by a research committee following the established policies of the Louisiana Tumor Registry. These include the following:

- a. approval from the LSUMC Institutional Review Board and the researchers' Institutional Review Board;
- b. signature of the LTR confidentiality form, agreeing to adhere to the LTR confidentiality provisions;
- c. the written agreement to use data solely for the specified topic;
- d. the signature of a hold-harmless agreement with LSU Medical Center;
- e. the participation of the Director or designated staff in manuscript review to ensure compliance with confidentiality measures; and
- f. the destruction of data once the research is completed.

2. Data linkage with LTR files shall be performed only by the LTR staff, and the Registry may require the removal of identifiers to protect the identity of cases.

3. Researchers shall provide permission from the patient or his next-of-kin when requesting case-specific health information that includes primary identifiers; without such, consent shall be obtained from the reporting facility or health care provider. In addition, physician consent may be a

prerequisite for contacting patients or their next-of-kin in some reporting facilities. A detailed description of the procedures for requesting Registry data can be obtained from the Louisiana Tumor Registry, at the address below. The Registry may charge a fee for providing data, and this fee shall be limited to actual costs incurred.

E. Requests for Aggregate Data

1. Data required by the LOPH for responding to concerns expressed about threats to the public health shall receive priority in determining the order of processing requests. Other requests shall be processed in the order of their receipt. The Registry shall respond to public requests as quickly as possible, subject to staffing constraints, provided that these requests meet certain requirements in conformity with R.S. 40:3.1(A) and (F) and R.S. 40:1299.87(F) et seq. Requesters may be asked to reimburse the LTR for actual costs for compiling data.

2. Requests for aggregate information shall be made in writing to the address listed below. The letter shall include a return address; a clear description of the requested data, including geographical area, year of diagnosis, and anatomical sites; and a legible version of the requester's name. The LTR staff shall provide aggregate figures, provided that complete and accurate data are available for the specified time period. If complete edited data are not available for the period requested, the LTR staff shall substitute information from the most recent years that meet its completeness and accuracy standards. The privacy of individuals shall be protected by suppressing small numbers in given geographic areas.

F. Annual Report. A detailed statistical report shall be prepared for the LSU Medical Center, the Louisiana Cancer and Lung Trust Fund Board, and each participating hospital and registry at the completion of each year's data collection cycle.

Phone and Address of the Louisiana Tumor Registry
Box P5-1, Pathology Department LSU Medical Center 1901 Perdido St. New Orleans, LA 70112 Phone: 504/568-4716 Fax: 504/599-1278

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998).

§8513. Interstate Exchange of Data

A. Because cancer patients may be diagnosed or receive treatment in another state, the Louisiana Tumor Registry is authorized to sign agreements with other states to acquire cancer data concerning Louisiana residents and, in return, to provide those states with data relating to their residents. Each signatory state shall agree, in writing, to keep all case-specific data confidential and privileged, to abide by all Louisiana confidentiality regulations, and to sign a hold-harmless agreement with the LSU Medical Center.

B. Data shall be exchanged only by the state central registries.

C. Cancer information on residents of other states, if the case was originally recorded in Louisiana and forwarded to the other state, shall not be included in special studies unless the researchers have obtained consent from the Louisiana Tumor Registry. These researchers shall comply with Louisiana confidentiality procedures.

D. The following Interstate Agreement form shall be executed by a representative of the state central registry who is authorized to legally obligate the registry.

**LOUISIANA TUMOR REGISTRY
CANCER PATIENT INFORMATION
EXCHANGE AGREEMENT
with**

The Louisiana Tumor Registry, in cooperation with the Louisiana Office of Public Health, hereinafter referred to as "LTR," and _____, hereinafter referred to as "Other," agree as follows:

(1) Services:

By signing this agreement, the parties state their intention to exchange cancer incidence data concerning cancer patients who are residents of the other's state in order to provide more complete case enumeration among their residents. This exchange is predicated on the mutual assurance that the identifying information on the patient that is exchanged is protected by law from release and shall be kept strictly confidential. This exchange does not pertain to any data collected as part of special morbidity or mortality studies or other research projects.

In addition, the parties agree:

- a) to provide the information following a mutually agreeable format and time table. It is expressly agreed that the identity of the patient and facility, along with any other pertinent identifying information routinely collected by both LTR and Other, will be provided.
- b) to restrict carefully the use of information. The information may be used only for registry administration and for aggregated statistical tabulations and analyses.
- c) to prohibit cancer incidence data or identifiable information on a health care provider that was supplied under the terms of the agreement from being released to anyone not employed in the direct operation of the recipient registry. Employees may include those involved in the processing, administration, quality control review, and statistical surveillance of cancer incidence data.
- d) not to contact directly any subject cancer patients or their families covered by this agreement. Any request for additional or follow-up information shall be referred back to the other party to this agreement.
- e) to terminate this agreement immediately upon the written notification of either party to terminate the agreement.

(2) Confidentiality:

The parties agree that:

- a) any and all LTR incidence data that pertain to an individual case, as distinguished from group, aggregate, or tabular data,
- b) they shall require all officers, agents, and employees to keep all such data strictly confidential, shall communicate the requirements of this section to all officers, agents, and employees, shall discipline all persons who may violate the requirements of this section, and shall notify the collecting agency in writing within forty-eight (48) hours of any violation of this section, including full details of the violation and corrective actions to be taken.
- c) all data provided under the provisions of this agreement may be used only for the purposes named in this agreement. Any other or additional use of the data may result in immediate termination of this agreement by either party.
- d) all data provided under the provisions of this agreement shall be sent by certified mail or courier service and are the sole property of the reporting state. They may not be copied or reproduced in any form or manner without prior written permission of the collecting agency.
- e) in the event that either party receives a subpoena or other court order compelling disclosure of confidential LTR data, the parties agree to notify

the registry that initially provided the data within forty-eight (48) hours of receipt of the subpoena or court order. Additionally, the parties agree that, should they receive such a subpoena, they shall take all legal steps reasonably necessary to oppose the subpoena.

- f) confidential information obtained under the terms of this agreement will not be released to parties conducting research or other activities, even if the study has met the recipient state's approval requirements. Instead, the researcher or other requester must contact the registry providing the original report for permission to use the data. Researchers using data originally abstracted in Louisiana must abide by Louisiana confidentiality procedures, a detailed description of which may be obtained from the Louisiana Tumor Registry at the address below.
- g) they shall sign agreements to hold the state that originally provided confidential data harmless should the recipient state release them in violation of the confidentiality provisions of this document.

(3) Data from Special Studies

As stated in subpart (1) above, this information exchange agreement does not encompass or apply to the confidential data of special morbidity or mortality studies and research investigations. These data are protected from disclosure by La. R.S. 40:3.1(A) through (H) and by R.S. 40:1299.87(F).

(4) Amendments:

This agreement shall not be amended without prior written approval of both parties to the agreement.

(5) Assignment:

The parties understand and agree that this agreement may not be sold, assigned, or transferred in any manner and that any actual or attempted sale, assignment, or transfer shall render this agreement null, void, and of no further effect.

- (6) This agreement shall be in effect from date of execution until terminated by either of the parties. This agreement may also be terminated without cause by either party at any time upon at least fifteen (15) days' written notice of termination to the other party. Termination shall be sent in writing pursuant to Section Six (6).

(7) Notices:

All notices required or desired to be made by either party to this agreement shall be sent by certified mail or courier service to the following addresses:

to LTR: Director
Louisiana Tumor Registry
Box P5-1, Pathology Department
LSU Medical Center
1901 Perdido Street
New Orleans, LA 70112

- (8) The parties hereto agree and warrant by signing this agreement that their agency has the right to keep the information covered by this agreement confidential.

(9) Total Agreement:

The parties understand and agree that this agreement constitutes the total agreement between them and that no promises, terms, or conditions not recited herein or incorporated herein or referenced herein shall be binding upon either of the parties.

Signed:

Agency*: _____ Agency: _____
 By: _____ By: _____
 Typed name: _____ Typed name: _____
 Title: _____ Title: _____
 Date: _____ Date: _____

*Agency: Representative of Louisiana Tumor Registry

Phone and Address of the Louisiana Tumor Registry
Box P5-1, Pathology Department LSU Medical Center 1901 Perdido St. New Orleans, LA 70112 Phone: 504/568-4716 Fax: 504/599-1278

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998).

Mervin L. Trail, M.D.
Chancellor, LSU

9807#036

RULE

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

Medicaid—Cochlear Device Implantation

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, establishes the following coverage and criteria for cochlear implantation for recipients 2 years of age through 20 years of age with profound bilateral sensorineural hearing loss.

I. Recipient Criteria

A. General Criteria for Cochlear Device Implantation. The following criteria apply to all candidates. Recipient must:

1. have a profound bilateral sensorineural hearing loss which is a pure tone average of 1,000, 2,000, and 4,000 Hz of 90dB HL or greater;
2. be a profoundly deaf child, age 2 years or older or be a post linguistically deafened adult through the age of 20 years;
3. receive no significant benefit from hearing aids as validated by the cochlear implant team;
4. have high motivation to be part of the hearing community as validated by the cochlear implant team;
5. have appropriate expectation;
6. have had radiologic studies that demonstrate no intracranial anomalies or malformations which would contraindicate implantation of the receiver-stimulator or the electrode array;
7. have no medical contraindications for undergoing implant surgery or post-implant rehabilitation; and
8. show that he and his family are well-motivated, possess appropriate post-implant expectations and are prepared and willing to participate in and cooperate with pre and post implant assessment and rehabilitation programs as recommended by the implant team and in conjunction with Federal Drug Administration (FDA) guidelines.

B. Specific Criteria

1. Children 2 Years through 9 Years. In addition to documentation that candidates meet general criteria the requestor shall provide documentation:

- a. that profound-to-total bilateral sensorineural hearing loss which is a pure tone average of 1,000, 2,000, and 4,000 Hz of 90dB HL or greater;
- b. that appropriate tests were administered and no significant benefit from a hearing aid was obtained in the best aided condition as measured by age-appropriate speech perception materials; and
- c. that no responses were obtained to Auditory Brainstem Response, Otoacoustic Emission testing, or any other special testing that would be required to determine that the hearing loss is valid and severe enough to qualify for cochlear implantation.

2. Children 10 Years through 17 Years. In addition to documentation that candidates meet general criteria, the requestor shall provide documentation:

- a. that profound-to-total bilateral sensorineural hearing loss which is a pure tone average of 1,000, 2,000, and 4,000 Hz of 90dB HL or greater;
- b. that appropriate tests were administered and no significant benefit from a hearing aid was obtained in the best aided condition as measured by age and language-appropriate speech perception materials;
- c. that no responses were obtained to Auditory Brainstem Evoked Response, Otacoustic Emission Testing, or any other special testing that would be required to determine that the hearing loss is valid and severe enough to qualify for cochlear implantation;
- d. the candidate has received consistent exposure to effective auditory or phonological stimulation in conjunction with oral method of education and auditory training;
- e. that candidate utilizes spoken language as his primary mode of communication through one of the following:
 - an oral/aural (re)habilitational program or a total communications educational program with significant oral/aural; and
 - f. that the individual has at least six months' experience with a hearing aid or vibrotactile device except in the case of meningitis (in which case the six-month period will be reduced to three months).

3. Adults 18 Years through 20 Years. In addition to documentation that candidates meet general criteria, the requestor shall provide documentation:

- a. that the candidate for implant is post linguistically deafened with severe to profound bilateral sensorineural hearing loss which is a pure tone average of 1,000, 2,000, and 4,000 Hz of 90dB HL or greater;
- b. that no significant benefit from a hearing aid was obtained in the best aided condition for speech/sentence recognition material;
- c. that no responses were obtained to Auditory Brainstem Response, Otoacoustic Emission testing, or any other special testing that would be required to determine that the hearing loss is valid and severe enough to qualify for cochlear implantation;

d. that the candidate has received consistent exposure to effective auditory or phonological stimulation or auditory communication;

e. that the candidate utilizes spoken language as his primary mode of communication through one of the following: an oral/aural (re)habilitation program or a total communications educational program with significant oral/aural training; and

f. that the candidate has had at least six months' experience with hearing aids or vibrotactile device except in the case of meningitis (in which case the six-month period will be reduced to three months).

4. Multi-Handicapped Children. Criteria appropriate for the child's age group are applied.

II. Minimal Requirements for Cochlear Implant Team

The implant team shall be composed of the following members at a minimum:

- A. physician/otologist;
- B. audiologist;
- C. speech/language pathologist;
- D. psychiatrist; and
- E. educator of the deaf with experience in oral/auditory instruction.

III. Prior Authorization

All implantations (CPT code 69930) must be prior authorized. The request to perform surgery shall come from the cochlear implant team (made up of professionals as described in II.A-E) who assessed the recipient's hearing sensitivity and determined him/her to be a potential candidate for implantation. The team's recommendation and the results of all preoperative testing (audiogram, tympanogram, acoustic reflexes, auditory brainstem response, otoacoustic emission, speech and language evaluation, social/psychological evaluation, medical evaluation, and any other pertinent testing or evaluation etc.) shall be submitted simultaneously to the Prior Authorization Unit for review.

Only one device per lifetime, per eligible recipient shall be reimbursed unless the device fails, in which case reimbursement for a second device will be considered. Reimbursement for a second surgery will also be considered if the first surgery fails or if the device is damaged beyond repair.

Ongoing speech, language and hearing therapy services for cochlear implant recipients must be prior authorized like all other rehabilitation services.

IV. Covered Expenses

The following expenses related to the maintenance of the cochlear device will be covered if prior authorized:

- A. all costs for upgrades and repairs to the component parts of the device; and
- B. all costs for cords and batteries.

V. Noncovered Expenses

The following expenses related to the maintenance of the cochlear device are the responsibility of either the recipient or his family or care giver(s):

- A. all costs for service contracts and/or extended warranties;

- B. all costs for insurance to protect against loss and theft.

David W. Hood
Secretary

9807#088

RULE

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

Mental Health Rehabilitation Program
Enrollment and Certification Criteria

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is adopted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes enrollment and certification requirements for participation in the Mental Health Rehabilitation Program (MHR); which replaces the requirement for licensure in the appropriate category by the Department of Social Services (DSS).

Exception: The provision of psychosocial skills training, which will continue to require an adult day care license from DSS for participation in the Mental Health Rehabilitation Program. Currently enrolled providers must re-enroll and meet the revised criteria within 90 days of the effective date of the final rule.

I. ...

II. Provider Participation

A. Application Requirements. Currently enrolled and prospective providers of mental health rehabilitation services must apply to the Bureau of Health Services Financing or its designee for certification as a mental health rehabilitation provider. The provider must have separate Medicaid provider numbers for each region where they are enrolled to do business. They have the ultimate responsibility for the delivery of all services, including those delivered through contractual agreement(s) in these regions. The prospective provider must provide documentation that the agency meets the following requirements and assurances to be enrolled as a Medicaid provider of MHR services:

1. completed PE 50 and addendum, and a completed disclosure of ownership form;
2. line of credit from a federally-insured, licensed, lending agency for at least \$20,000 as proof of adequate finances. Nonprofit agencies which have been in existence for at least five years and have a valid audit, by a certified public accountant, of their most recent fiscal year, which verifies the viability of the agency are not required to meet this standard;

3. statement identifying the population to be served: adults with serious mental illness; children with emotional/behavior disorder; or both; staff must have been credentialed by the Office of Mental Health to provide services to each designated population group (children and/or adults);

4. proof of general liability insurance of at least \$150,000 and professional liability insurance of at least \$150,000. The certificate holder shall be the Department of Health and Hospitals;

5. identification of the agency's main offices, all offices billing with the main office's Medicaid provider number, and all regions in which the agency conducts business;

6. résumés and documentation of qualifications for the current program director, the psychiatric director and all clinical manager(s), including documentation of licensure;

7. disclosure, in writing, of any financial transaction with the agency in which a member of the governing body, administrative personnel, or his/her immediate family is involved and/or a familial relationship with any other entity receiving Medicaid funds;

8. a copy of a current adult day care license issued by Department of Social Services if providing group psychosocial skills/training for adults;

9. certifications and licenses must reflect the correct agency name and address;

10. certification by Office of Mental Health that the provider meets the criteria listed in B below.

B. Certification Requirements. Upon receipt of the application, the Bureau of Health Services Financing or its designee will conduct an onsite visit within 30 working days of receipt of a completed enrollment packet to assure that the agency meets the following enrollment guidelines:

1. Demonstrate an administrative structure to provide mental health rehabilitation services as evidenced by written policies and procedures to include:

a. the composition and responsibilities of the governing body;

b. administrative files for employment and personnel including job descriptions, an organization chart, time sheets, payroll records and hiring practices;

c. personnel records of each staff member documenting experience, education and training in accordance with MHR staffing requirements;

d. compliance with the ongoing MHR training requirements;

e. procedure for the maintenance, security, and confidentiality of residents' records;

f. consumers' rights including procedures for resolution of grievances;

g. procedures for reporting cases of abuse and neglect as defined by state and federal regulations;

h. procedures for subcontracting of services, including copies of leases, contracts and service agreements.

2. Demonstrate adequate financial resources; a system of business management and staffing; and fiscal accountability to assure maintenance of complete and accurate accounts, books and records in keeping with generally accepted accounting principles, as follows:

a. maintain a preliminary or current detailed budget for the agency;

b. maintain adequate funds to reimburse staff and provide necessary services;

c. maintain a separate business bank account;

d. submit a copy of an annual audit of the MHR agency conducted by an independent certified public accountant, in accordance with generally accepted accounting principles, within 90 days of the close of the agency's first year of business and annually thereafter.

3. Demonstrate the capacity to provide all services within the MHR program directly or through a subcontract as evidenced by:

a. identification of direct services to be provided, including a written program philosophy and agency goals;

b. identification of the role of clinical management within the agency;

c. identification of services to be provided by subcontractors;

d. identification of professional consultants, including psychologists, psychiatrists, and/or physicians, and their role within the agency;

e. maintenance of a written plan to determine the effectiveness of the MHR program including a Continuous Quality Improvement Plan and a consumer satisfaction component.

4. An agency shall be required to have regular posted business office hours and be fully operational at least eight hours a day, five days a week between 7 a.m. and 7 p.m. Services shall be available on an emergency basis 24 hours a day, seven days a week. (If an agreement is made with another entity, a signed agreement shall be on file.)

5. Outreach offices shall serve the same or part of the geographic area approved for the main office.

a. The outreach office shall retain all clinical records for its consumers. Duplicate records need not be maintained at the main office, but shall be made available to federal/state surveyors during any review upon request. The main office shall maintain a listing of all clients and the outreach office seeing the client.

b. Original personnel files are to be kept at the main office.

c. A statement of personnel policies is maintained in each outreach office for staff usage.

d. Approval for outreach offices will be issued, in writing, by the bureau or its designee for one year and will be renewed at time of recertification.

C. Failure to Meet Certification. If the agency fails to meet certification requirements, a letter identifying the problem areas will be sent to the agency. Within 60 days, the agency must request a second review to determine if all deficiencies were corrected. If the agency is unable to correct the deficiencies or does not request a second review, the agency is not allowed to request another site visit for one year after the initial request.

D. Recertification. Each year the agency must reapply to the BHSF or its designee for recertification 90 days prior to the expiration of the certification. The agency must submit all information outlined above. The agency will then be reviewed

on-site by BHSF, or its designee, to assure the agency continues to meet certification requirements. If the agency meets the requirements, a one-year certification will be issued.

E. Failure to Meet Recertification. If the agency does not meet the standards, the agency will be notified of all deficiencies, in writing, within 15 working days following the on-site review. The agency shall submit a corrective action plan which shall be received by the bureau or its designee within 10 days of the date of the letter. A follow-up survey will be conducted (within 60 days of citation date) whenever necessary to assure correction of deficiencies. When applicable, deficiencies may be cleared at the exit interview and/or by mail.

F. Notification of Changes

1. The bureau or its designee shall be notified, in writing, of any of the following changes within five working days of the change:

- a. location;
- b. address;
- c. telephone number;
- d. hours of operation/24 hour contact procedure;
- e. ownership (controlling): 5 percent or more of controlling interest;
- f. administrator;
- g. program director, clinical manager, and psychiatric director;
- h. change in address or phone number of any out reach office;
- i. any subcontracting change that is in addition to; or deletion of subcontractors.

2. Any request for change in location of geographic area served must include written approval from BHSF, or its designee, for the proposed area.

3. Change of Ownership. If the agency expects to undergo a change of ownership, a representative of the buyer must obtain a packet entitled "Change of Ownership (CHOW) Packet" from the bureau and complete the following information before purchasing the agency:

- a. PE-50;
- b. a disclosure of ownership form;
- c. a certified copy of the bill of sale and articles of incorporation which must be submitted to the bureau within five working days after the act of sale;
- d. the new name and address of the agency;
- e. administrative personnel.

4. Closure of MHR Agency. If at any time the agency is no longer operational, the certification shall be deemed invalid and shall be returned to the bureau within five working days. The agency owner is responsible for notifying the bureau of the location of all records. To be operational, an agency must:

- a. have at least five active consumers at the time of any survey other than an initial survey;
- b. be able to accept referrals at any time during regular business hours;
- c. have adequate staff to meet the needs of current consumers;

d. have required designated staff on the premises at all times during business hours;

e. be immediately available by telecommunications 24 hours per day.

G. Suspension and/or Termination of Certification

1. The agency will be suspended from certification and enrollment for any of the following reasons:

a. if more than 10 percent of consumers file complaints regarding service provisions in a one-year period and the complaints have been validated by BHSF or its designee;

b. continued noncompliance with any certification requirements (three surveys within one-year period);

c. failure to provide the range of services specified in the service agreement;

d. failure to uphold patient rights when violations may or could result in harm or injury;

e. failure of the agency to protect consumers from harmful actions of agency employees, including, but not limited to, health and safety, coercion, threat, intimidation, solicitation and harassment;

f. failure to notify proper authorities of all suspected cases of neglect, criminal activity, or mental or physical abuse which could potentially cause harm to the patient;

g. failure to maintain adequate qualified staff to provide necessary services;

h. failure of subcontractors to meet all required standards;

i. failure to allow entry to MHR agency or subcontracted agency; or access to any requested records during any survey;

j. failure to remain fully operational at any time for any reason other than a disaster;

k. failure of an agency to correct violations within 60 days after being cited, or at the time of the follow-up survey, whichever occurs first;

l. agency staff or owner knowingly, or with reason to know, make a false statement of a material fact in the:

- i. application for enrollment;
- ii. data forms;
- iii. clinical record;
- iv. matter under investigation by the department;
- m. agency uses false, fraudulent or misleading advertising;
- n. failure to disclose a conviction of a criminal offense by persons who have ownership or control interest in the provider, or is an agent or managing employee of the provider as described in 42 CFR 455.106; or

o. failure to comply with all reporting requirements in a timely manner.

2. The suspensive action will take effect immediately upon written notification. Suspended agencies will not be allowed to admit new clients until final decision when all appeal rights have been exhausted.

3. If an agency's suspension is upheld in an appeal, the agency and its owners (under any agency name) will not be allowed to participate for two years from the date of the suspension.

III. - VIII. ...

X. Notice and Appeal Procedure

An applicant or certificant aggrieved by any action taken by the department pursuant to Paragraph II(C), II(E), or II(G), may appeal such action suspensively by submitting a written request for an appeal to the secretary of the department. The request for appeal must be received by the secretary within 30 days after the receipt of the written notification of the department's action and must specify, in detail, the reasons for the appeal and the reasons why the applicant or certificant feels aggrieved by the department's action. The appeal and the hearing thereof shall be conducted in accordance with the Medicaid provider appeal process.

David W. Hood
Secretary

9807#052

RULE

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

Qualified Individuals—Medicare Part B Buy-In

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 4732 of the Balanced Budget Act of 1997 governing the payment of Medicare Part B premiums for Qualifying Individuals. These provisions are effective for premiums payable beginning January 1, 1998 and ending with December 31, 2002. A capped allocation is available for each of the five years beginning January 1998, for payment of premiums for the following two mandatory groups:

1) Qualified Individuals-1 (QI-1s): individuals who are entitled to Part A of Medicare, with income above 120 percent, but less than 135 percent of the federal poverty level. In addition their resources cannot exceed twice the SSI limit and they cannot otherwise be eligible for Medicaid. Eligibility for Medicaid benefits is limited to full payment of Medicare Part B premiums. The amount of the capped allocation limits the number of eligible individuals.

2) Qualified Individuals-2 (QI-2s): individuals who are entitled to Part A of Medicare, with income at least 135 percent, but less than 175 percent of the federal poverty level. In addition, their resources cannot exceed twice the SSI limit and they cannot otherwise be eligible for Medicaid. Eligibility for Medicaid benefits is limited to partial payment of Medicare Part B premiums. The amount of the capped allocation limits the number of eligible individuals.

Once an individual is selected to receive assistance in a calendar month, he is entitled to receive assistance for the remainder of the calendar year, as long as the individual continues to meet QI criteria. However, the fact that an individual receives assistance at any time during the year does not necessarily entitle the individual to continued assistance for any succeeding year. For calendar years after 1998, the state shall give preference to individuals who were QIs, QMBs, SLMBs, or Qualified Disabled and Working Individuals (QDWIs) in the last month of the previous year and who continue to be or become QIs. Selection of QIs shall be on a first-come, first-serve basis (in the order in which they apply).

David W. Hood
Secretary

9807#072

RULE

**Department of Health and Hospitals
Office of the Secretary
Medical Disclosure Panel**

**Informed Consent—Oral Surgery; Gastric Lap Band for Obesity; Gastric Bypass with or without Liver Biopsy for Obesity; Thoracentesis; Cancer Chemotherapy
(LAC 48:I.Chapter 23)**

As authorized by R.S. 40:1299.40(E), as enacted by Act 1093 of 1990 and later amended by Act 962 of 1992 and Act 633 of 1993, the Department of Health and Hospitals, Office of the Secretary, in consultation with the Medical Disclosure Panel, is amending rules which require which risks must be disclosed under the Doctrine of Informed Consent to patients undergoing medical treatments or procedures and the consent form to be signed by the patient and physician before undergoing any such treatment or procedure.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Chapter 23. Informed Consent

§2317. Oral Surgery

A.1. - 10. ...

11. Possible injury to TMJ (Temporomandibular Joint Dysfunction or jaw joint).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 18:1391 (December 1992), repromulgated LR 19:1581 (December 1993), amended LR 23:75 (January 1997), LR 24:1304 (July 1998).

§2451. Gastric Lap Band for Obesity

Note: Itemization of the procedures and risks under a particular specialty does not preclude other qualified practitioners from using those risks identified for the particular procedure.

A. Risks of Surgery

1. Damage to surrounding organs:

- a. bowel, pancreas, liver, requiring more surgery;
- b. blood vessels and/or spleen with bleeding requiring transfusion;

- c. with removal of spleen.

B. Risks of Recovery Period

1. Abdominal wound problems:

- a. infection, failure to heal, severe scarring, hernia.

2. Blood clots in the legs and/or pulmonary embolism (clots moving to lungs).

3. Pneumonia or other breathing problems requiring prolonged need for ventilator (breathing machine).

C. Need for additional surgery due to:

1. gallstones with possible inflammation of the liver and/or pancreas;

2. stomach or intestinal blockage from trapped food or scarring;

3. abdominal infection with abscess;

4. bleeding.

D. Other long term risks:

1. extreme weight loss;

2. failure to lose weight;

3. large folds of loose skin;

4. depression as a result of weight loss, required diet change, or complications of surgery;

5. failure of the procedure;

6. vitamin and/or mineral deficiency, possibly requiring lifelong injections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 24:1304 (July 1998).

§2453. Gastric Bypass with or without Liver Biopsy for Obesity

Note: Itemization of the procedures and risks under a particular specialty does not preclude other qualified practitioners from using those risks identified for the particular procedure.

A. Risks of Surgery

1. Damage to surrounding organs:

- a. bowel, pancreas, liver, requiring more surgery;

- b. blood vessels and/or spleen with bleeding requiring transfusion;

- c. with removal of spleen.

B. Risks of Recovery Period

1. Abdominal wound problems:

- a. infection, failure to heal, severe scarring, hernia.

2. Blood clots in the legs and/or pulmonary embolism (clots moving to lungs).

3. Pneumonia or other breathing problems requiring prolonged need for ventilator (breathing machine).

C. Need for additional surgery due to:

1. gallstones with possible inflammation of the liver and/or pancreas;

2. stomach or intestinal blockage from trapped food or scarring;

3. abdominal infection with abscess;

4. bleeding.

D. Other long term risks:

1. extreme weight loss;

2. failure to lose weight;

3. large folds of loose skin;

4. depression as a result of weight loss, required diet change, or complications of surgery;

5. failure of the procedure;

6. excessive flatulence (passing bowel gas);

7. severe, persistent diarrhea;

8. vitamin and/or mineral deficiency, possibly requiring lifelong injections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 24:1305 (July 1998).

§2455. Thoracentesis (insertion of needle or tube for drainage of chest cavity fluid)

Note: Itemization of the procedures and risks under a particular specialty does not preclude other qualified practitioners from using those risks identified for the particular procedure.

A. Bleeding.

B. Pneumothorax (lung collapse).

C. Infection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 24:1305 (July 1998).

§2457. Cancer Chemotherapy (treatment of cancer using anti-cancer medications)

Note: Itemization of the procedures and risks under a particular specialty does not preclude other qualified practitioners from using those risks identified for the particular procedure.

A. Hair loss.

B. Damage to blood forming organ (bone marrow) which may result in bleeding, infection, anemia, and possible need for transfusion.

C. Damage to brain, heart, kidneys, liver, lungs, nervous system, and skin.

D. Serious allergic reaction including shock.

E. Sterility.

F. Nausea and/or vomiting.

G. Constipation or diarrhea.

H. Sores on lips and/or ulcers in the lips, mouth, throat, stomach, rectum.

I. Loss of lining of intestinal tract from mouth to anus.

J. Secondary cancer (cancers in the future caused by chemotherapy).

K. Local damage at injection site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 24:1305 (July 1998).

§2459. Intravenous Conscious Sedation

Note: Itemization of the procedures and risks under a particular specialty does not preclude other qualified practitioners from using those risks identified for the particular procedure.

The risks for Intravenous Conscious Sedation will be covered by 4, (c), as stated in the main consent form [death, brain damage, disfiguring scars, quadriplegia (paralysis for neck down), paraplegia (paralysis from waist down), the loss or loss of function of any organ or limb, infection, bleeding, and pain].

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Medical Disclosure Panel, LR 24:1305 (July 1998).

David W. Hood
Secretary

9807#057

RULE

**Department of Natural Resources
Office of Conservation**

Drug Testing (LAC 43:XIII.3103, 3107, and 3109)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation amends the drug testing regulations.

Title 43

NATURAL RESOURCES

Part XIII. Office of Conservation—Pipeline Safety

Subpart 1. General Provisions

Chapter 31. Drug Testing

§3103. Definitions

* * *

Administrator—the administrator of the Research and Special Programs Administration or any person to whom authority in the matter concerned has been delegated by the Secretary of Transportation.

* * *

State Agency—an agency of any of the several states, the District of Columbia, or Puerto Rico that participates under the pipeline safety laws (49 U.S.C. 60101 et seq.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:532 (June 1990), amended LR 18:852 (August 1992), LR 21:826 (August 1995), LR 24:1306 (July 1998).

§3107. Anti-Drug Plan

* * *

B. The administrator or the state agency that has submitted a current certification under the pipeline safety laws (49 U.S.C. 60101 et seq.) with respect to the pipeline facility governed by an operator’s plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant state procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:533 (June 1990), amended LR 18:852 (August 1992), LR 21:826 (August 1995), LR 24:1306 (July 1998).

Chapter 33. Alcohol Misuse Prevention Program

§3309. Definitions

As used in this Chapter:

* * *

State Agency—an agency of any of the several states, the District of Columbia, or Puerto Rico that participates under the pipeline safety laws (49 U.S.C. 60101 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:829 (August 1995), amended LR 24:1306 (July 1998).

Philip N. Asproditos
Commissioner

9807#035

RULE

**Department of Natural Resources
Office of Conservation**

Natural Gas Pipeline Safety
(LAC 43:XIII.Chapters 1-29)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby amends the gas safety regulations.

Title 43

NATURAL RESOURCES

Part XIII. Office of Conservation—Pipeline Safety

Subpart 1. General Provisions

Chapter 1. General

§105. Incorporation by Reference

A. Any documents or portions thereof incorporated by reference in this Part are included in this Part as though set out in full. When only a portion of a document is referenced, the remainder is not incorporated in this Part.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1306 (July 1998).

§125. Definitions

* * *

Petroleum Gas—propane, propylene, butane, (normal butane or isobutanes), and butylene (including isomers), or mixtures composed predominantly of these gases, having a vapor pressure not exceeding 1,434 kPa (208 psig) at 38EC (100EF).

* * *

Transmission Line—a pipeline, other than a gathering line, that:

1. transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not downstream from a distribution center;

2. operates at a hoop stress of 20 percent or more of SMYS; or

3. transports gas within a storage field. A large volume customer may receive similar volumes of gas as a distribution center, and includes factories, power plants, and institutional users of gas.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:852 (August 1992), LR 20:442 (1994), LR 21:821 (August 1995), LR 24:1306 (July 1998).

Chapter 3. Reporting of Incidents, Safety-Related Conditions, and Annual Reports

§317. Report Forms

Copies of the prescribed report forms are available without charge upon request from the address given in §307. Additional copies in this prescribed format may be reproduced and used if in the same size and kind of paper. In addition, the information required by these forms may be submitted by any other means that is acceptable to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:254 (March 1985), amended LR 20:442 (April 1994), LR 24:1307 (July 1998).

§323. Filing Safety-Related Condition Reports

A. Each report of a safety-related condition under §321.A must be filed concurrently and (received by the commissioner and associate administrator, OPS) in writing within five working days (not including Saturday, Sunday, state or federal holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. To file a report by telefacsimile (FAX), dial (504) 342-5529 and (202) 366-7128.

B. ...

1. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:254 (March 1985), amended LR 18:854 (August 1992), LR 20:443 (April 1994), LR 24:1307 (July 1998).

Chapter 5. Class Locations

§501. Class Locations

A. This Section classifies pipeline locations for purposes of this Part. The following criteria apply to classifications under this Section.

1. A *class location unit* is an onshore area that extends 220 yards on either side of the centerline of any continuous one-mile length of pipeline.

2. Each separate dwelling unit in a multiple dwelling unit building is counted as a separate building intended for human occupancy.

B. Except as provided in Subsection C of this Section, pipeline locations are classified as follows.

1. A Class 1 location is:

a. an offshore area; or

b. any class location unit that has 10 or fewer buildings intended for human occupancy.

2. A Class 2 location is any class location unit that has more than 10 but fewer than 46 buildings intended for human occupancy.

3. A Class 3 location is:

a. any class location unit that has 46 or more buildings intended for human occupancy; or

b. an area where the pipeline lies within 100 yards of either a building or a small, well-defined outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by 20 or more persons on at least five days a week for 10 weeks in any 12-month period. (The days and weeks need not be consecutive.)

4. A Class 4 location is any class location unit where buildings with four or more stories above ground are prevalent.

C. The length of Class locations 2, 3, and 4 may be adjusted as follows.

1. A Class 4 location ends 220 yards from the nearest building with four or more stories above ground.

2. When a cluster of buildings intended for human occupancy requires a Class 2 or 3 location, the class location ends 220 yards from the nearest building in the cluster.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:443 (April 1994), LR 24:1307 (July 1998).

§503. Gathering Lines and Petroleum Gas Systems

A. ...

B. Petroleum Gas Systems

1. each plant that supplies petroleum gas by pipeline to a natural gas distribution system must meet the requirements of this Part and ANSI/NFPA 58 and 59.

2. each pipeline system subject to this Part that transports only petroleum gas or petroleum gas/air mixtures must meet the requirements of this Part and of ANSI/NFPA 58 and 59.

3. in the event of a conflict between this Part and ANSI/NFPA 58 and 59, ANSI/NFPA 58 and 59 prevail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:443 (April 1994), LR 21:821 (August 1995), LR 24:1307 (July 1998).

§509. Customer Notification

A. This Section applies to each operator of a service line who does not maintain the customer's buried piping up to entry of the first building downstream, or, if the customer's buried piping does not enter a building, up to the principal gas utilization equipment or the first fence (or wall) that surrounds that equipment. For the purpose of this Section, *customer's buried piping* does not include branch lines that serve yard lanterns, pool heaters, or other types of secondary equipment. Also, *maintain* means monitor for corrosion according to §2117 if the customer's buried piping is metallic, survey for

leaks according to §2923, and if an unsafe condition is found, shut off the flow of gas, advise the customer of the need to repair the unsafe condition, or repair the unsafe condition.

B. Each operator shall notify each customer once in writing of the following information:

1. the operator does not maintain the customer's buried piping.

2. if the customer's buried piping is not maintained, it may be subject to the potential hazards of corrosion and leakage.

3. buried gas piping should be:

a. periodically inspected for leaks;

b. periodically inspected for corrosion if the piping is metallic; and

c. repaired if any unsafe condition is discovered.

4. When excavating near buried gas piping, the piping should be located in advance, and the excavation done by hand.

5. The operator (if applicable), plumbers, and heating contractors can assist in locating, inspecting, and repairing the customer's buried piping.

C. Each operator shall notify each customer not later than August 14, 1996 or 90 days after the customer first receives gas at a particular location, whichever is later. However, operators of master meter systems may continuously post a general notice in a prominent location frequented by customers.

D. Each operator must make the following records available for inspection by the administrator or a state agency participating under 49 U.S.C. 60105 or 60106:

1. a copy of the notice currently in use; and

2. evidence that notices have been sent to customers within the previous three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 24:1307 (July 1998).

Chapter 7. Qualification of Pipe

§713. Marking of Materials

A. Except as provided in §713.D, each valve, fitting, length of pipe, and other component must be marked:

1. as prescribed in the specification or standard to which it was manufactured, except that thermoplastic fittings must be marked in accordance with ASTM D 2513; or

2. ...

B. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:854 (August 1992), LR 20:443 (April 1994), LR 24:1308 (July 1998).

Chapter 9. Pipe Design

§905. Design Formula for Steel Pipe

A. - C.2.a.i. ...

ii. the lowest yield strength determined by the tensile tests,

b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1308 (July 1998).

§917. Design of Plastic Pipe

Subject to the limitations of §919, the design pressure for plastic pipe is determined in accordance with either of the following formulas:

$$P = 2S \frac{t}{(D \& t)} \times 0.32$$

$$P = \frac{2S}{(SDR \& 1)} \times 0.32$$

where:

P = Design pressure, gauge, kPa (psig).

S = For thermoplastic pipe, the long-term hydrostatic strength determined in accordance with the listed specification at a temperature equal to 23EC (73EF), 38EC (100EF), 49EC (120EF), or 60EC (140EF); for reinforced thermosetting plastic pipe, 75,842 kPa (11,000 psi).

t = Specified wall thickness, mm (in.).

D = Specified outside diameter, mm (in).

SDR = Standard dimension ratio, the ratio of the average specified outside diameter to the minimum specified wall thickness, corresponding to a value from a common numbering system that was derived from the American National Standards Institute preferred number series 10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:855 (August 1992), LR 24:1308 (July 1998).

§919. Design Limitations for Plastic Pipe

A. - A.2. ...

B. Plastic pipe may not be used where operating temperatures of the pipe will be:

1. below -29EC (-20EF), or -40EC (-40EF) if all pipe and pipeline components whose operating temperature will be below -29EC (-20EF) have a temperature rating by the manufacturer consistent with that operating temperature; or

2. above the following applicable temperatures:

a. for thermoplastic pipe, the temperature at which the long-term hydrostatic strength used in the design formula under §917 is determined. However, if the pipe was manufactured before May 18, 1978 and its long-term hydrostatic strength was determined at 23EC (73EF), it may be used at temperatures up to 38EC (100EF).

b. for reinforced thermosetting plastic pipe, 66EC (150EF).

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1308 (July 1998).

Chapter 11. Pipeline Design Requirements

§1141. Transmission Line Valves

A. Each transmission line, other than offshore segments, must have sectionalizing block valves spaced as follows,

unless in a particular case the administrator finds that alternative spacing would provide an equivalent level of safety:

1. - 4. ...

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1308 (July 1998).

§1151. Vaults: Drainage and Waterproofing

A. - B. ...

C. Electrical equipment in vaults must conform to the applicable requirements of Class I, Group D, of the National Electrical Code, ANSI/NFPA 70.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1309 (July 1998).

§1165. Instrument, Control, and Sampling Pipe and Components

A. ...

B. Materials and Design. All materials employed for pipe and components must be designed to meet the particular conditions of service and the following:

1. ...

2. except for takeoff lines that can be isolated from sources of pressure by other valving, a shutoff valve must be installed in each takeoff line as near as practicable to the point of takeoff. Blowdown valves must be installed where necessary.

3. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:445 (April 1994), LR 24:1309 (July 1998).

Chapter 13. Welding Requirements

§1305. Qualification of Welders

A. ...

B. A welder may qualify to perform welding on pipe to be operated at a pressure that produces a hoop stress of less than 20 percent of SMYS by performing an acceptable test weld, for the process to be used, under the test set forth in Section I of Appendix C of this Part. Each welder who is to make a welded service line connection to a main must first perform an acceptable test weld under Section II of Appendix C of this Part as a requirement of the qualifying test.

1. - 2.b. Repeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1309 (July 1998).

§1307. Limitations on Welders

A. - B. ...

C. A welder qualified under §1305.A:

1. may not weld on pipe to be operated at a pressure that produces a hoop stress of 20 percent or more of SMYS unless

within the preceding six calendar months the welder has had one weld tested and found acceptable under Section 3 or 6 of API Standard 1104, except that a welder qualified under an earlier edition previously listed in Appendix A of this Part may weld but may not requalify under that earlier edition; and

2. may not weld on pipe to be operated at a pressure that produces a hoop stress of less than 20 percent of SMYS unless the welder is tested in accordance with Subsection C.1 of this Section or requalifies under Subsection D.1 or D.2 of this Section.

D. A welder qualified under §1305.B may not weld unless:

1. within the preceding 15 calendar months, but at least once each calendar year, the welder has requalified under §1305.B; or

2. within the preceding 7½ calendar months, but at least twice each calendar year, the welder has had:

a. a production weld cut out, tested, and found acceptable in accordance with the qualifying test; or

b. for welders who work only on service lines 2 inches or smaller in diameter, two sample welds tested and found acceptable in accordance with the test in Section III of Appendix C of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1309 (July 1998).

§1315. Inspection and Test of Welds

A. - B.2. ...

C. The acceptability of a weld that is nondestructively tested or visually inspected is determined according to the standards in Section 6 of API Standard 1104. However, if a girth weld is unacceptable under those standards for a reason other than a crack, and if the Appendix to API Standard 1104 applies to the weld, the acceptability of the weld may be further determined under that Appendix.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1309 (July 1998).

§1317. Nondestructive Testing

A. - D.3. ...

4. at pipeline tie-ins, including tie-ins of replacement sections, 100 percent.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1309 (July 1998).

Chapter 15. Pipe Joining Requirements

§1509. Plastic Pipe

A. - C.2. ...

3. an electrofusion joint must be joined utilizing the equipment and techniques of the fittings' manufacturer or equipment and techniques shown, by testing joints to the requirements of §1511.A.1.c, to be at least equivalent to those of the fittings' manufacturer.

D. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:445 (April 1994), LR 24:1309 (July 1998).

§1511. Plastic Pipe; Qualifying Joining Procedures

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

b. in the case of thermosetting plastic pipe, paragraph 8.5 (Minimum Hydrostatic Burst Pressure) or paragraph 8.9 (Sustained Static Pressure Test) of ASTM D2517; or

c. in the case of electrofusion fittings for polyethylene pipe and tubing, paragraph 9.1 (Minimum Hydraulic Burst Pressure Test), paragraph 9.2 (Sustained Pressure Test), paragraph 9.3 (Tensile Strength Test), or paragraph 9.4 (Joint Integrity Tests) or ASTM Designation F1055;

2. - 3. ...

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:445 (April 1994), LR 24:1310 (July 1998).

Chapter 17. Transmission Line Construction

§1717. Protection from Hazards

A. The operator must take all practicable steps to protect each transmission line or main from washouts, floods, unstable soil, landslides, or other hazards that may cause the pipeline to move or to sustain abnormal loads. In addition, the operator must take all practicable steps to protect offshore pipelines from damage by mud slides, water currents, hurricanes, ship anchors, and fishing operations.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:1310 (July 1998).

§1719. Installation of Pipe in a Ditch

A. - B.2. ...

C. All offshore pipe in water at least 12 feet deep but not more than 200 feet deep, as measured from the mean low tide, except pipe in the Gulf of Mexico and its inlets under 15 feet of water, must be installed so that the top of the pipe is below the natural bottom unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means. Pipe in the Gulf of Mexico and its inlets under 15 feet of water must be installed so that the top of the pipe is 36 inches below the seabed for normal excavation or 18 inches for rock excavation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:1310 (July 1998).

§1721. Installation of Plastic Pipe

A. Plastic pipe must be installed below ground level unless otherwise permitted by Subsection G of this Section.

B. - F. ...

G. Uncased plastic pipe may be temporarily installed above ground level under the following conditions:

1. the operator must be able to demonstrate that the cumulative aboveground exposure of the pipe does not exceed the manufacturer's recommended maximum period of exposure or two years, whichever is less.

2. the pipe either is located where damage by external forces is unlikely or is otherwise protected against such damage.

3. the pipe adequately resists exposure to ultraviolet light and high and low temperatures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1310 (July 1998).

§1727. Cover

A. Except as provided in §1727.C, E, F and G, each buried transmission line must be installed with a minimum cover as follows:

B. - D.3. ...

E. Except as provided in §1727.C, all pipe installed in a navigable river, stream, or harbor must be installed with a minimum cover of 48 inches in soil or 24 inches in consolidated rock between the top of the pipe and the natural bottom.

F. All pipe installed offshore, except in the Gulf of Mexico and its inlets, under water not more than 200 feet deep, as measured from the mean low tide, must be installed as follows:

1. except as provided in §1727.C, pipe under water less than 12 feet deep, must be installed with a minimum cover of 36 inches in soil or 18 inches in consolidated rock between the top of the pipe and the natural bottom.

2. pipe under water at least 12 feet deep must be installed so that the top of the pipe is below the natural bottom, unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means.

G. All pipelines installed under water in the Gulf of Mexico and its inlets, as defined in §125, must be installed in accordance with §2712.B.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:1310 (July 1998).

Chapter 19. Meters, Regulators, Service Lines and Valve Requirements

§1925. Service Lines: Plastic

A. Each plastic service line outside a building must be installed below ground level, except that:

1. it may be installed in accordance with §1721.G; and
2. it may terminate above ground level and outside the building, if:
 - a. the above ground level part of the plastic service line is protected against deterioration and external damage; and
 - b. the plastic service line is not used to support external loads.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1310 (July 1998).

§1931. Service Lines: Excess Flow Valve Performance Standards

A. Excess flow valves to be used on single residence service lines that operate continuously throughout the year at a pressure not less than 10 psig must be manufactured and tested by the manufacturer according to an industry specification, or the manufacturer's written specification, to ensure that each valve will:

1. function properly up to the maximum operating pressure at which the valve is rated;
2. function properly at all temperatures reasonably expected in the operating environment of the service line;
3. at 10 psig:
 - a. close at, or not more than 50 percent above, the rated closure flow rate specified by the manufacturer; and
 - b. upon closure, reduce gas flow:
 - i. for an excess flow valve designed to allow pressure to equalize across the valve, to no more than 5 percent of the manufacturer's specified closure flow rate, up to a maximum of 20 cubic feet per hour; or
 - ii. for an excess flow valve designed to prevent equalization of pressure across the valve, to no more than 0.4 cubic feet per hour; and
4. not close when the pressure is less than the manufacturer's minimum specified operating pressure and the flow rate is below the manufacturer's minimum specified closure flow rate.

B. An excess flow valve must meet the applicable requirements of Chapters 7 and 11 of this Part.

C. An operator must mark or otherwise identify the presence of an excess flow valve in the service line.

D. An operator shall locate an excess flow valve as near as practical to the fitting connecting the service line to its source of gas supply.

E. An operator should not install an excess flow valve on a service line where the operator has prior experience with contaminants in the gas stream, where these contaminants could be expected to cause the excess flow valve to malfunction or where the excess flow valve would interfere with necessary operation and maintenance activities on the service, such as blowing liquids from the line.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 24:1311 (July 1998).

Chapter 21. Corrosion Requirements

§2107. External Corrosion Control: Buried or Submerged Pipelines Installed after July 31, 1971

A. - A.1. ...

2. it must have a cathodic protection system designed to protect the pipeline in its entirety in accordance with this Chapter, installed and placed in operation within one year after completion of construction.

B. - E. ...

F. This Section does not apply to electrically isolated, metal alloy fittings in plastic pipelines, if:

1. for the size fitting to be used, an operator can show by tests, investigation, or experience in the area of application that adequate corrosion control is provided by alloy composition; and

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1311 (July 1998).

§2127. Internal Corrosion Control: General

A. - B.3. ...

C. Gas containing more than 0.25 grain of hydrogen sulfide per 100 standard cubic feet (four parts per million) may not be stored in pipe-type or bottle-type holders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:1311 (July 1998).

§2137. Remedial Measures: Transmission Lines

A. - B. ...

C. Under §2137.A and B, the strength of pipe based on actual remaining wall thickness may be determined by the procedure in ASME/ANSI B31G or the procedure in AGA Pipeline Research Committee Project PR 3-805 (with RSTRENG disk). Both procedures apply to corroded regions that do not penetrate the pipe wall, subject to the limitations prescribed in the procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1311 (July 1998).

§2143. Corrosion Control Records

A. Each operator shall maintain records or maps to show the location of cathodically protected piping, cathodic protection facilities, galvanic anodes, and neighboring structures bonded to the cathodic protection system. Records or maps showing a stated number of anodes, installed in a stated manner or spacing, need not show specific distances to each buried anode.

B. Each record or map required by Subsection A of this Section must be retained for as long as the pipeline remains in service.

C. Each operator shall maintain a record of each test, survey, or inspection required by this Subpart in sufficient detail to demonstrate the adequacy of corrosion control

measures or that a corrosive condition does not exist. These records must be retained for at least five years, except that records related to §§2117.A and E and 2127.B must be retained for as long as the pipeline remains in service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1311 (July 1998).

Chapter 23. Test Requirements

§2313. Test Requirements for Plastic Pipelines

A. - B. ...

C. The test pressure must be at least 150 percent of the maximum operating pressure or 50 psig, whichever is greater. However, the maximum test pressure may not be more than three times the pressure determined under §917, at a temperature not less than the pipe temperature during the test.

D. During the test, the temperature of thermoplastic material may not be more than 38EC (100EF), or the temperature at which the material's long-term hydrostatic strength has been determined under the listed specification, whichever is greater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1312 (July 1998).

Chapter 25. Upgrading

§2503. General Requirements

A. - C. ...

D. Limitation on increase in maximum allowable operating pressure. Except as provided in §2505.C, a new maximum allowable operating pressure established under this Chapter may not exceed the maximum that would be allowed under this Part for a new segment of pipeline constructed of the same materials in the same location. However, when upgrading a steel pipeline, if any variable necessary to determine the design pressure under the design formula (§905) is unknown, the MAOP may be increased as provided in §2721.A.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1312 (July 1998).

Chapter 27. General Operating Requirements

§2703. General Provisions

A. - B. ...

C. The administrator or the state agency that has submitted a current certification under the pipeline safety laws, (49 U.S.C. 60101 et seq.) with respect to the pipeline facility governed by an operator's plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant state procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended

LR 10:503 (July 1984), LR 18:857 (August 1992), LR 21:821 (August 1995), LR 24:1312 (July 1998).

§2707. Initial Determination of Class Location and Confirmation or Establishment of Maximum Allowable Operating Pressure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), repealed LR 24:1312 (July 1998).

§2715. Damage Prevention Program

A. - B.1. ...

2. provide for general notification of the public in the vicinity of the pipeline and actual notification of the persons identified in Subsection B.1 of the following as often as needed to make them aware of the damage prevention program:

2.a. - 6.b. ...

C. A damage prevention program under this Section is not required for the following pipelines:

1. pipelines located offshore;
2. pipelines, other than those located offshore, in Class 2 or 3 locations until September 20, 1995;
3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1312 (July 1998).

§2721. Maximum Allowable Operating Pressure: Steel or Plastic Pipelines

A. Except as provided in Subsection C of this Section, no person may operate a segment of steel or plastic pipeline at a pressure that exceeds the lowest of the following:

1. the design pressure of the weakest element in the segment, determined in accordance with §§901 through 1165 of Part XIII. However, for steel pipe in pipelines being converted under §507 or upgraded under Chapter 25 of this Part, if any variable necessary to determine the design pressure under the design formula (§905) is unknown, one of the following pressures is to be used as design pressure:

a. eighty percent of the first test pressure that produces yield under Section N5.0 of Appendix N of ASME B31.8, reduced by the appropriate factor in Subsection A.2.b of this Section; or

b. if the pipe is 324 mm (12¾ inches) or less in outside diameter and is not tested to yield under this Subsection, 1,379 kPa (200 psig).

A.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1312 (July 1998).

§2725. Odorization of Gas

A. - C.3. ...

4. the combustible gas is hydrogen intended for use as a feedstock in a manufacturing process.

D. - G.6. ...

H. Quarterly Reports

1. Each operator shall conduct quarterly sampling of toxic or combustible gases to assure the proper concentration of odorant in accordance with this Section. Operators of master meter systems may comply with this requirement by:

- a. receiving written verification from their gas source that the gas has the proper concentration of odorant; and
- b. conducting periodic "sniff" tests at the extremities of the system to confirm that the gas contains odorant.

2. - 3. ...

I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:447 (April 1994), LR 21:823 (August 1995), LR 24:1312 (July 1998).

Chapter 29. Maintenance Requirements

§2905. Transmission Lines: Patrolling

A. - B. ...

C. Methods of patrolling include walking, driving, flying or other appropriate means of traversing the right-of-way.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:447 (April 1994), LR 24:1313 (July 1998).

§2909. Line Markers for Mains and Transmission Lines

A. - A.2. ...

B. Exceptions for buried pipelines. Line markers are not required for the following pipelines:

1. mains and transmission lines located offshore, or at crossings of or under waterways and other bodies of water;
2. mains in Class 3 or Class 4 locations where a damage prevention program is in effect under §2715;
3. transmission lines in Class 3 or 4 locations until March 20, 1996; or
4. transmission lines in Class 3 or 4 locations where placement of a line marker is impractical.

C. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1313 (July 1998).

§2911. Transmission Lines: Record Keeping

Each operator shall maintain the following records for transmission lines for the periods specified:

1. the date, location, and description of each repair made to pipe (including pipe-to-pipe connections) must be retained for as long as the pipe remains in service.
2. the date, location, and description of each repair made to parts of the pipeline system other than pipe must be retained for at least five years. However, repairs generated by patrols, surveys, inspections, or tests required by Chapters 27 and 29 of this Part must be retained in accordance with Subsection A.3 of this Section.
3. a record of each patrol, survey, inspection, and test required by Chapters 27 and 29 of this Part must be retained

for at least five years or until the next patrol, survey, inspection, or test is completed, whichever is longer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1313 (July 1998).

§2923. Distribution Systems: Patrolling, Leakage Surveys and Procedures

A. ...

1. ...

2. mains in places or on structures where anticipated physical movement or external loading could cause failure or leakage must be patrolled:

- a. in business districts, at intervals not exceeding 4½ months, but at least four times each calendar year; and
- b. outside business districts, at intervals not exceeding 7½ months, but at least twice each calendar year.

B. - B.1.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 21:823 (August 1995), LR 24:1313 (July 1998).

Philip N. Asprodites
Commissioner

9807#033

RULE

Department of Natural Resources Office of Conservation Pipeline Division

Hazardous Liquid Safety Standards
(LAC 33:V.30107, 30129, 30259, 30269, and 30300)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., Department of Natural Resources, Office of Conservation, Pipeline Division amends the hazardous liquid regulations.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials Subpart 3. Natural Resources

Chapter 301. Transportation of Hazardous Liquids by Pipeline

Subchapter A. General

§30107. Matter Incorporated by Reference

A. - B.5. ...

6. American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428.

C. The full title for the publications incorporated by reference in this Part are as follows. Number in parenthesis indicated applicable editions:

1. American Gas Association (AGA): AGA Pipeline Research Committee, Project PR-3-805, *A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe*

(December 1989). The RSTRENG program may be used for calculating remaining strength.

2. American Petroleum Institute (API):
 - a. API Specification 5L *Specification for Line Pipe* (41st ed. 1995);
 - b. API Specification 6D *Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)* (21st ed. 1994);
 - c. API Specification 1104 *Welding of Pipelines and Related Facilities* (18th ed. 1994).
3. American Society of Mechanical Engineers (ASME):
 - a. ASME/ANSI B16.9 *Factory-Made Wrought Steel Buttwelding Fittings* (1993);
 - b. ASME/ANSI B31.4 *Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols* (1992 ed. with 1994 Addenda);
 - c. ASME/ANSI B31.8 *Gas Transmission and Distribution Piping Systems* (1995);
 - d. ASME/ANSI B31G *Manual for Determining the Remaining Strength of Corroded Pipelines* (1991);
 - e. Boiler and Pressure Vessel Code, Section VIII, Division 1 *Pressure Vessels* (1995 with Addenda);
 - f. ASME Boiler and Pressure Vessel Code, Section IX *Welding and Brazing Qualifications* (1995 with Addenda).
4. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS):
 - a. MSS SP-75 *Specification for High Test Wrought Butt Welding Fittings* (1993).
 - b. [Reserved]
5. American Society for Testing and Materials (ASTM):
 - a. ASTM Designation: A 53 *Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless* (A 53-94);
 - b. ASTM Designation: A 106 *Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service* (A 106-94);
 - c. ASTM Designation: A 333/A 333M *Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service* (A 333/A 333M-94);
 - d. ASTM Designation: A 381 *Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High Pressure Transmission Systems* (A 381-93);
 - e. ASTM Designation: A 671 *Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures* (A 671-94);
 - f. ASTM Designation: A 672 *Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures* (A 672-94);
 - g. ASTM Designation: A 691 *Standard Specification for Carbon and Alloy Steel Pipe Electric-Fusion-Welded for High-Pressure Service at High Temperatures* (A 691-93).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:439 (1994), LR 21:815 (August 1995), LR 24:1313 (July 1998).

Subchapter B. Reporting Accidents and Safety-Related Conditions

§30129. Addressee for Written Reports

Each written report required by this Subchapter must be made to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 2335, 400 Seventh Street SW, Washington, D.C. 20590 and concurrently to Office of Conservation, Pipeline Safety, Box 94275, Baton Rouge, LA 70804-9275. However, accident reports for intrastate pipelines subject to the jurisdiction of a state agency pursuant to a certification under the pipeline safety laws (49 U.S.C. 60101 et seq.) may be submitted in duplicate to that state agency if the regulations of that agency require submission of these reports and provide for further transmittal of one copy within 10 days of receipt to the Information Resources Manager. Safety-related condition reports required by §30133 for intrastate pipelines must be submitted concurrently to the state agency, and if that agency acts as an agent of the secretary with respect to interstate pipelines, safety related condition reports for these pipelines must be submitted concurrently to that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:863 (August 1992), LR 20:440 (1994), amended LR 24:1314 (July 1998).

Subchapter F. Operation and Maintenance **§30259. Procedural Manual for Operations, Maintenance, and Emergencies**

* * *

B. Amendments. The administrator or the state agency that has submitted a current certification under the pipeline safety laws (49 U.S.C. 60101 et seq.) with respect to the pipeline facility governed by an operator's plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant state procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:864 (August 1992), LR 21:819 (August 1995), LR 24:1314 (July 1998).

§30269. Line Markers

A. - 1. ...

2. The marker must state at least the following on a background of sharply contrasting color:

- a. the word Warning, Caution, or Danger followed by the words Petroleum (or the name of the hazardous liquid transported) Pipeline, or Carbon Dioxide Pipeline, all of which, except for markers in heavily developed urban areas, must be in letters at least 1 inch high with an approximate stroke of one-quarter inch;

b. the name of the operator and a telephone number (including area code) where the operator can be reached at all times.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:865 (August 1992), LR 24:1314 (July 1998).

Chapter 303. Hazardous Liquid Pipelines Enforcement §30300. Damage Prevention Program

A. After September 20, 1995, and except for pipelines listed in Subsection C of this Section, each operator of a buried pipeline shall carry out, in accordance with this Section, a written program to prevent damage to that pipeline by excavation activities. For the purpose of this Section, excavation activities include excavation, blasting, boring, tunneling, backfilling, the removal of above ground structures by either explosive or mechanical means and other earth moving operations. An operator may comply with any of the requirements of Subsection B of this Section through participation in a public service program, such as a one-call system, but such participation does not relieve the operator of responsibility for compliance with this Section.

B. The damage prevention program required by Subsection A of this Section must, at a minimum:

1. include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located;
 2. provide for notification of the public in the vicinity of the pipeline and actual notification of the persons identified in Subsection B.1 of this Section of the following, as often as needed to make them aware of the damage prevention program:
 - a. the program's existence and purpose; and
 - b. how to learn the location of underground pipelines before excavation activities are begun;
 3. provide means of receiving and recording notification of planned excavation activities;
 4. if the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings;
 5. provide for temporary marking of buried pipelines in the area of excavation activity before, as for as practical, the activity begins.
 6. provide as follows for inspection of pipelines that an operator has reason to believe could be damaged by excavation activities:
 - a. the inspection must be done as frequently as necessary during and after the activities to verify the integrity of the pipeline; and
 - b. in the case of blasting, any inspection must include leakage surveys.
- C. A damage prevention program under this Section is not required for the following pipelines:
1. pipelines located offshore;

2. pipelines to which access is physically controlled by the operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 24:1315 (July 1998).

Philip N. Asprodites
Commissioner

9807#034

RULE

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

Riverboat Gaming—Internal Controls;
Tips or Gratuities (LAC 42:XIII.2721)

The Gaming Control Board hereby amends LAC 42:XIII.2721 in accordance with R.S. 27:1 et seq. and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part XIII. Riverboat Gaming

Chapter 27. Accounting Regulations

§2721. Internal Controls; Tips or Gratuities

A. - B. ...

C. All tips and gratuities given to gaming employees other than slot machine gaming employees shall be:

1. - 3. ...

4. the licensee may elect to handle tips generated in its poker room separately from the pro rata distribution pool. Tips or gratuities may be assigned to the dealer generating the tip or gratuity, and the following procedures shall be used.

a. Each dealer shall have a locked transparent box marked with the dealer's name or otherwise coded for identification. Keys to these boxes shall be maintained by the cage department. When not in use, these boxes shall be stored in a locked storage cabinet or other approved lockable storage medium in the poker room itself. Keys to the storage cabinet shall be maintained by someone other than a dealer, hereinafter referred to as the keyholder.

b. When a poker dealer arrives at his assigned poker table, the dealer and the keyholder shall obtain the dealer's marked transparent locked box from the locked storage cabinet. The box shall be placed at the poker table in the same manner as any other dealer token box. If the dealer leaves the poker table for any reason, the dealer's marked box shall be removed from the table by the dealer and the keyholder and returned to the storage cabinet.

c. At the end of the dealer's shift, the dealer along with an independent verifier (an employee independent of the table games and cage departments), shall take that dealer's marked transparent locked box to the cage for counting. The cage employee shall unlock, empty, and relock the box. The cage employee shall count the contents of the box in the presence of the dealer and the independent verifier. The

amount shall be recorded on a three-part voucher, and signed by the cage employee, the dealer, and the independent verifier. The three parts of the voucher shall be distributed as follows:

- i. one part shall be given to the dealer;
- ii. one part shall be maintained by the cage; and
- iii. one part shall be forwarded to the payroll department.

d. Tips or gratuities counted above shall be deposited into the licensee's payroll account. Distribution to the dealer for the tips or gratuities earned by the dealer at poker tables shall be made in accordance with the licensee's payroll accounting practices and shall be subject to all applicable state and federal withholding taxes and regulations. No distributions shall be made to the dealer in any other manner.

e. A poker room dealer may tip any cashier working as the poker room cashier during the poker room dealer's shift. Any such tip shall be handled when the poker room dealer's tips are counted as defined above. A section of the dealer's tip voucher shall be marked to allow the dealer to indicate which cashier the dealer wishes to tip and the amount of the tip. The tip shall be deducted from the dealer's total tips at the time of the count. Tips given to a cashier in this manner shall be distributed to the cashier in accordance with the licensee's payroll accounting practices and shall be subject to all applicable state and federal withholding taxes and regulations. No tips from a poker room dealer shall be made to a cashier in any other manner.

f. The licensee shall maintain a minimum level of supervision, as approved by the Division, over the poker room tables. Surveillance shall be required to continuously monitor and record open poker tables.

D. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:705 (July 1995), amended by the Gaming Control Board, LR 24:1315 (July 1998).

Hillary J. Crain
Chairman

9807#018

RULE

Department of Public Safety and Corrections Public Safety Services Office of Motor Vehicles

Driver's License—Reciprocity Agreements with Foreign Countries (LAC 55:III.171-181)

The Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, hereby adopts rules pertaining to the implementation of the law authorizing the department to enter into reciprocity agreements with foreign countries which would allow citizens of the foreign countries to apply for and obtain Louisiana driver's licenses without having to take the written test or the skills test.

Title 55

PUBLIC SAFETY AND CORRECTIONS

Part III. Motor Vehicles

Chapter 1. Driver's License

Subchapter B. Reciprocity Agreements with Foreign Countries

§171. General

A. The department may enter into reciprocity agreements with a foreign country which would allow citizens of that foreign country to apply for and be issued a Louisiana driver's license without having to take the written test and the skills test. Similarly, citizens of Louisiana would be able to apply for and be issued a driver's license in the same foreign country without having to take a written test or a skills test, or in the alternative, the foreign country may allow the Louisiana resident to drive in the foreign country with the Louisiana driver's license.

B. The deputy secretary of Public Safety Services may sign the reciprocity agreement on behalf of the department. A duly authorized representative of the foreign government may sign the agreement on behalf of the foreign government.

C. Prior to entering into such a reciprocity agreement, both parties shall undertake a review process of the other party's licensing requirements to determine that the licensing requirements are compatible. The nature, scope and extent of the review shall be at the sole discretion of the party conducting the review. The parties may enter into the reciprocity agreement only if both parties determine the licensing requirements of both parties are compatible.

D. The reciprocity agreement shall specify the rights and obligations of both parties. To the extent the laws of Louisiana regarding public contracts are applicable to the reciprocity agreement, the reciprocity agreement shall be subject to those laws.

E. The reciprocity agreement shall provide that any action against the state or the department, or both, arising out of the reciprocity agreement, shall be brought in the 19th Judicial District Court for the Parish of East Baton Rouge.

F. The reciprocity agreement shall provide that all persons who are issued a Louisiana driver's license pursuant to the agreement shall be subject to all criminal, civil, and administrative laws governing the operation of a motor vehicle including, but not limited to, laws regulating traffic on public highways, roads and streets, the Implied Consent Law, the compulsory automobile liability insurance law, and the vehicle registration and titling laws. The reciprocity agreement shall also provide that persons issued driver's licenses pursuant to the agreement shall be subject to sanctions for violating state laws and rules promulgated pursuant to state law in the same manner as residents of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:404(F).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1316 (July 1998).

§173. Application for a Driver's License Pursuant to a Reciprocity Agreement; Graduated Driver's License; Reports of Driver Condition or Behavior

A. Only in those cases in which a foreign country has

entered into a reciprocity agreement with the department, may a citizen of that foreign country apply for a Louisiana driver's license pursuant to a reciprocity agreement. The application shall be on a form approved by the department for an application for a driver's license. The person shall meet all the requirements contained in state law regarding eligibility for a driver's license, except that the person applying pursuant to the reciprocity agreement does not have to take the written or the road skills test.

B. Regardless of the nature of the license from the foreign country, a person under the age of 17 must comply with the graduated license requirements in order to obtain a driver's license.

C. Nothing in these rules shall be construed as prohibiting the department from requiring a person licensed pursuant to a reciprocity agreement from submitting to a special examination in the event the department receives a report of driver condition or behavior. If the department receives such a report, the department may require the person to submit to any examination that would be required of a Louisiana resident including a medical examination, a written test or a road skills test. The department may suspend or revoke any such driver's license if the person does not successfully complete the special examination.

D. The person applying for a Louisiana driver's license pursuant to a reciprocity agreement shall present a valid driver's license from his country. The person shall be required to keep the license from his country valid during the entire time he possesses a Louisiana license. If at any time, the person has his foreign country driver's license suspended, canceled, or revoked, he shall immediately surrender his Louisiana driver's license and cease operating a motor vehicle in Louisiana.

E. The person applying for a Louisiana driver's license pursuant to a reciprocity agreement shall sign a statement in which the person agrees to be bound by the terms of the reciprocity agreement and the rules contained in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:404(F).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1316 (July 1998).

§175. Revocations, Suspensions; Compact State

A. A person who has a revoked or suspended Louisiana driver's license, or who has been denied a Louisiana driver's license because of failure to meet a statutory qualification, shall neither apply for, nor be issued, a driver's license pursuant to a reciprocity agreement.

B. A person who has a driver's license suspended or revoked by a state which is a member of the driver's license compact, shall neither apply for, nor be issued, a driver's license pursuant to a reciprocity agreement.

C. In those cases described in either §175.A or B in which the driver's license has been suspended or revoked, the person must clear all suspensions or revocations before being eligible to apply for a driver's license pursuant to a reciprocity agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:404(F).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1317 (July 1998).

§177. Effective Dates of Reciprocity Agreements; Policy and Procedure Statements

A. All reciprocity agreements shall provide for an effective date and a termination date. The reciprocity agreement may provide for automatic renewals at the end of the specified term, but the agreement shall state that either party may choose not to renew the reciprocity agreement upon 60 days' written notice to the other party. All licenses issued pursuant to a canceled reciprocity agreement shall be revoked 30 days after a public announcement of the cancellation of the reciprocity agreement, or upon the expiration of the 60 days after the issuance of the written notice of cancellation, whichever is longer.

B. In the event of an imminent threat to the public health, safety, or welfare, either party may suspend a reciprocity agreement upon written notice to the other party. If a reciprocity agreement is suspended, no new driver's licenses and no renewals of driver's licenses shall be issued pursuant to the reciprocity during the period of suspension. The party suspending the reciprocity agreement shall specify the duration of the suspension, or specify that the suspension is indefinite.

C. Any new reciprocity agreement, or any amendment to a reciprocity agreement shall not take effect until sufficient time has been given for the department to implement any necessary changes to its policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:404(F).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1317 (July 1998).

§179. Commercial Driver's Licenses; Class of License

A. A commercial driver's license, Class "A," "B," or "C," shall not be issued pursuant to any reciprocity agreement.

B. Except as provided in §179.A, the class of license issued by the department pursuant to a reciprocity agreement shall be of the same class or of a similar class of license issued by the foreign country.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:404(F).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1317 (July 1998).

§181. Declaratory Orders

A. Any person desiring a ruling on the applicability of any statute, or the applicability or validity of any rule, to the regulation of the reciprocity agreements with foreign countries for the issuance of driver's licenses shall submit a written petition to the assistant secretary. The written petition shall cite all constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the assistant secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed or written legibly, and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the

complete physical and mailing address of the person, and a daytime telephone number.

B. The assistant secretary may request the submission of legal memoranda to be considered in rendering any order or ruling. The assistant secretary or his designee shall base the order or ruling on the documents submitted including the petition and legal memoranda. If the assistant secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

C. Notice of the order or ruling shall be sent to person submitting the petition as well as the persons receiving notice of the petition at the mailing addresses provided in connection with the petition.

D. The assistant secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:404(F) and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1317 (July 1998).

Thomas Normile
Undersecretary

9807#019

RULE

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

**Expiration Dates on Permits
(LAC 55:VII.321)**

In accordance with the provisions of R.S. 49:950 et seq., and the authority of R.S. 26:794, the Department of Revenue, Office of Alcohol and Tobacco Control has amended LAC 55:VII.321, which governs the expiration dates of retail alcohol permits.

The purpose of the amendment is to stagger the expiration dates of new retail permits and readjust the expiration dates of existing retail permits at the time of their renewal. This new system allows for the year-round equal distribution of expiring permits based upon the location of the licensed establishment.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Subpart 1. Beer and Liquor

Chapter 3. Liquor Credit Regulations

§321. Staggering of Expiration Dates

A. In accordance with the authority of R.S. 26:794(B), the expiration dates of retail permits issued by the Office of Alcohol and Tobacco Control shall be staggered in accordance with the provisions of this Section.

1. - 8. Repealed.

B. Purpose. The purpose of this staggering process is to

provide for the even distribution of expiration dates of new and existing permits based upon the parish in which the licensed establishment is located. This will allow the Office of Alcohol and Tobacco Control to concentrate its limited resource to the particular region of the state in which all retail permits are scheduled to expire. The expiration date of retail permits will be easy to determine and thereby assist both state and local enforcement agents, retail and wholesaler dealers in the enforcement of the licensing requirements contained in Title 26. This in turn will reduce the ever-increasing number of delinquent renewal applications filed with this office and eliminate the purchase and resale of alcoholic beverages by unlicensed establishments.

C. New Business Application and Related Fees

1. Beginning February 18, 1998, the expiration date of all retail permits issued pursuant to new-business applications shall have an expiration date to be determined by the Office of Alcohol and Tobacco Control in accordance with Subsection G of this Section.

2. The fee for all such new business permits shall be as set forth in Sections 71 and 271 of Title 26.

D. Renewal of Existing Permits and Related Fees

1. The renewal of an existing permit during this staggering process shall be for a period of not less than seven months nor more than 18 months, which period shall be determined by the Office of Alcohol and Tobacco Control in accordance with Subsection G of this Section.

2. The fee for such a permit shall be determined by a proration of the annual fee as established by Title 26 over the appropriate number of months.

E. Renewal Deadline: Penalties

1. Applications for the renewal of permits issued pursuant to this regulation shall be due in the Office of Alcohol and Tobacco Control not later than 30 days prior to the date of expiration on current permit.

2. The monetary penalties established in Sections 88 and 285 of Title 26 for those permittees who fail to timely file their renewal application shall remain in effect. The permittee shall be charged the delinquency penalty over and above the prorated fee.

F. Gross Sales. The payment of an additional permit fee by retailers based on the amount of their gross liquor sales as provided in Section 71 of Title 26 shall continue and shall be assessed on the gross sales made during the preceding calendar year. In renewal permits issued pursuant to this regulation, the additional fee shall be prorated over the appropriate number of months.

G. Expiration Date of Retail Permit. All retail permits issued after February 18, 1998, by the Office of Alcohol and Tobacco Control shall expire in accordance with the following schedule:

Parish Code	Parish Name	Expire Month
1	Acadia	October
2	Allen	March
3	Ascension	January
4	Assumption	November

5	Avoyelles	July
6	Beauregard	March
7	Bienville	September
8	Bossier	September
9	Caddo	September
10	Calcasieu	March
11	Caldwell	December
12	Cameron	March
13	Catahoula	December
14	Claiborne	September
15	Concordia	December
16	DeSoto	September
17	East Baton Rouge	January
18	East Carroll	December
19	East Feliciana	August
20	Evangeline	July
21	Franklin	December
22	Grant	December
23	Iberia	October
24	Iberville	July
25	Jackson	December
26	Jefferson	February
27	Jefferson Davis	March
28	Lafayette	October
29	Lafourche	November
30	LaSalle	December
31	Lincoln	September
32	Livingston	August
33	Madison	December
34	Morehouse	December
35	Natchitoches	December
36	Orleans	May
37	Ouachita	December
38	Plaquemines	April
39	Point Coupee	July
40	Rapides	July
41	Red River	September
42	Richland	December
43	Sabine	September

44	St. Bernard	April
45	St. Charles	April
46	St. Helena	August
47	St. James	April
48	St. John	April
49	St. Landry	July
50	St. Martin	October
51	St. Mary	November
52	St. Tammany	August
53	Tangipahoa	August
54	Tensas	December
55	Terrebonne	November
56	Union	December
57	Vermillion	March
58	Vernon	March
59	Washington	August
60	Webster	September
61	West Baton Rouge	July
62	West Carroll	December
63	West Feliciana	August
64	Winn	December

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:794.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 12:247 (April 1986), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1318 (July 1998).

Murphy Painter
Commissioner

9807#030

RULE

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

Tobacco Permits (LAC 55:VII.3101-3113)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and R.S. 26:922, the Department of Revenue, Office of Alcohol and Tobacco Control has adopted LAC 55:VII.3101-3113 to regulate the sale of tobacco products.

In order to comply with the Prevention of Youth Access to Tobacco Law, Act 1370 of the 1997 Regular Session of the Louisiana Legislature, comprised of R.S. 26:901-922, was enacted to provide for the Office of Alcohol and Tobacco

Control (previously the Office of Alcoholic Beverage Control) to issue licenses to dealers who sell tobacco products at wholesale, retail, or through vending machines, effective October 1, 1997. The Act, which also provides for definitions, fees, and fines, directed the Office of Alcohol and Tobacco Control to promulgate rules and regulations to implement the Act by July 1, 1998.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Subpart 2. Tobacco

Chapter 31. Tobacco Permits

§3101. Definitions

For the purposes of this Chapter, the following terms are defined.

Dealer—every person who manufactures or purchases cigars, cigarettes, or other tobacco products for distribution or resale in this state. The term also means any person who imports cigars, cigarettes, or other tobacco products from any state or foreign country for distribution, sale, or consumption in this state.

Manufacturer—anyone engaged in the manufacture, production, or foreign importation of tobacco products who sells to wholesalers.

Retail Dealer—every dealer, other than a wholesale dealer or manufacturer, who sells or offers for sale cigars, cigarettes, or other tobacco products, irrespective of quantity or the number of sales.

Vending Machine—any mechanical, electric, or electronic self-service device that, upon insertion of money, tokens, or any other form of payment, automatically dispenses tobacco products.

Vending Machine Operator—any person who controls the use of one or more vending machines as to the supply of cigarettes or any tobacco products in the machine or the receipts from cigarettes vended through such machines.

Wholesale Dealer—dealers whose principal business is that of a wholesaler, who sells cigars, cigarettes, or other tobacco products to retail dealers for purpose of resale, who is a bona fide wholesaler, and 50 percent of whose total tobacco sales are to retail stores other than their own or their subsidiaries within Louisiana. Wholesale dealer shall include any person in the state who acquires cigarettes solely for the purpose of resale in vending machines, provided such person services 50 or more cigarette vending machines in Louisiana other than his own, and those Louisiana dealers who were affixing cigarette and tobacco stamps as of January 1, 1974.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:901.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1320 (July 1998).

§3103. Identifying Information for Licenses

A. Certificate and Permits

1. A Retail Dealer Registration Certificate shall be issued to any dealer, not otherwise required by Title 26 to obtain a permit, other than a wholesale dealer or vending machine operator for each retail outlet where cigars, cigarettes, or other tobacco products are offered for sale either over the counter or by vending machine.

2. A Retail Dealer Permit shall be issued to a dealer other than a wholesale dealer or vending machine operator for each retail outlet where cigars, cigarettes, or other tobacco products are offered for sale either over the counter or by vending machine.

3. A Vending Machine Operator Permit shall be issued to a vending machine operator operating one or more vending machines. Licensed wholesale dealers who operate vending machines shall not be required to obtain a vending machine operator permit.

4. A Vending Machine Permit shall be issued to the vending machine operator or wholesale dealer for each vending machine he operates and such permit shall be affixed to the upper front surface of the vending machine.

5. A Wholesale Dealer Permit shall be issued to a wholesale dealer for each wholesale place of business operated by the wholesale dealer.

B. The following identifying information shall be listed on the face of all retail dealer registration certificates, retail dealer permits, vending machine operator permits, and wholesale dealer permits:

1. the name of the license holder;
2. the name and address of the establishment for which the license is obtained;
3. the license number;
4. the dates of issuance and expiration;
5. the amount paid for the license.

C. The following identifying information shall be listed on the face of all vending machine permits:

1. the name of the license holder;
2. the vending machine operator permit number;
3. the vending machine permit number;
4. the address for the location of the vending machine;
5. the date of expiration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:902.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1320 (July 1998).

§3105. Additional Information for Licenses: Partnership, Corporation, Limited Liability Company (LLC)

A. In addition to all other information required of an applicant by Title 26, any partnership, corporation, or limited liability company applying for a tobacco license shall provide the written agreement (partnership) or certificate (corporation and LLC) to the Office of Alcohol and Tobacco Control.

B. This requirement is waived for any applicant who also has a liquor license with the Office of Alcohol and Tobacco Control, provided the applicant includes the liquor license number on the application.

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

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1320 (July 1998).

§3107. Expiration of Licenses

A. The expiration of Retail Dealer Registration Certificates and Retail Dealer Permits shall be staggered to expire in accordance with the following schedule:

Parish Code	Parish Name	Month Permit Expires
01	Acadia	October
02	Allen	March
03	Ascension	January
04	Assumption	November
05	Alveolus	July
06	Beauregard	March
07	Bienville	September
08	Bossier	September
09	Caddo	September
10	Calcasieu	March
11	Caldwell	December
12	Cameron	March
13	Catahoula	December
14	Claiborne	September
15	Concordia	December
16	DeSoto	September
17	East Baton Rouge	January
18	East Carroll	December
19	East Feliciana	August
20	Evangeline	July
21	Franklin	December
22	Grant	December
23	Iberia	October
24	Iberville	July
25	Jackson	December
26	Jefferson	February
27	Jefferson Davis	March
28	Lafayette	October
29	Lafourche	November
30	LaSalle	December
31	Lincoln	September
32	Livingston	August
33	Madison	December
34	Morehouse	December
35	Natchitoches	December
36	Orleans	May
37	Ouachita	December
38	Plaquemines	April
39	Point Coupee	July
40	Rapides	July

41	Red River	September
42	Richland	December
43	Sabine	September
44	St. Bernard	April
45	St. Charles	April
46	St. Helena	August
47	St. James	April
48	St. John	April
49	St. Landry	July
50	St. Martin	October
51	St. Mary	November
52	St. Tammany	August
53	Tangipahoa	August
54	Tensas	December
55	Terrebonne	November
56	Union	December
57	Vermillion	March
58	Vernon	March
59	Washington	August
60	Webster	September
61	West Baton Rouge	July
62	West Carroll	December
63	West Feliciana	August
64	Winn	December

B. All Vending Machine Operator Permits shall expire each year on June 30.

C. All Vending Machine Permits shall expire each year on June 30.

D. All Wholesale Dealer Permits shall expire each year on December 31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:904.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1320 (July 1998).

§3109. Initial Application and Related Fees

A. Retail Dealer Registration Certificate

1. The initial \$25 annual fee for a Retail Dealer Registration Certificate shall be prorated over the appropriate number of months.

2. The annual renewal fee will be \$25 as established in Title 26 of the Revised Statutes.

B. The fee for a Retail Dealer Permit shall be \$75 per year or any portion thereof, as established in Title 26 of the Revised Statutes.

C. The fee for a Vending Machine Operator Permit shall be \$75 per year or any portion thereof, as established in Title 26 of the Revised Statutes.

D. The fee for a Vending Machine Permit shall be \$5 per machine per year or any portion thereof, as established in Title 26 of the Revised Statutes.

E. The fee for a Wholesale Dealer Permit shall be \$75 per year or any portion thereof, as established in Title 26 of the Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:903 and R.S. 26:904.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1321 (July 1998).

§3111. Renewal Deadline: Penalties

A. For a renewal application to be timely filed, the application and the appropriate fee must be received by the Office of Alcohol and Tobacco Control on or before the license expiration date.

B. Failure to timely file the renewal application will subject the license holder to the delinquency penalties authorized by R.S. 26:905.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:905.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1322 (July 1998).

§3113. Special Event Permits and Related Fees

A. The Office of Alcohol and Tobacco Control may issue a special event permit for a duration of three consecutive days, with no more than 12 such permits issued to any one person within a single calendar year.

B. The fee for a special event permit shall be \$25.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:923.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1322 (July 1998).

Murphy J. Painter
Commissioner

9807#031

RULE

**Department of Social Services
Office of Family Support**

Electronic Benefits Transfer (EBT) (LAC 67:III.402, 407)

The Department of Social Services, Office of Family Support has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 1, General Administrative Procedures.

**Title 67
SOCIAL SERVICES**

Part III. Office of Family Support

Subpart 1. General Administrative Procedures

Chapter 4. Electronic Benefits Issuance System

§402. Delivery of Benefits

A. FITAP and Food Stamp Program benefits shall be delivered through EBT in staggered cycles to ongoing households beginning on the first day of each month. The last

digit of the Social Security number determines the date that benefits are issued. FITAP 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.

B. Benefits are delivered in this manner for households certified on an ongoing 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 and the case may be closed. These benefits can be returned to active status at the local Office of Family Support offices upon request of the head of household. 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).

§407. 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 rule 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 ongoing 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).

Madlyn B. Bagneris
Secretary

9807#074

RULE

Department of Social Services Office of Family Support

Family Independence Temporary Assistance
Program (FITAP)—Drug Testing Program
(LAC 67:III.1301, 1302, 1303)

The Department of Social Services, Office of Family Support (OFS) has adopted the *Louisiana Administrative Code*, Title 67, Part III, Subpart 2, §§1301-1303 in the Family Independence Temporary Assistance Program (FITAP).

Pursuant to Act 1459 of the 1997 Regular Session of the Legislature, the Department of Social Services in consultation with the Department of Health and Hospitals establishes mandatory drug screening, testing, education and rehabilitation for adult FITAP recipients.

The agency anticipates that all current adult recipients will have been screened within 6 to 12 months of the date of implementation. Although agency policy is routinely effective the first day of the month following publication of the final rule, this action will be effective upon publication.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 13. Special Conditions of Eligibility

Subchapter A. Drug Screening, Testing, Education and Rehabilitation Program

§1301. Compliance

All adult recipients of FITAP must be free from the use of or dependency on illegal drugs. All applicants for and recipients of FITAP benefits, age 18 and over, must satisfactorily comply with the requirements of the drug screening, testing, education and rehabilitation process. An illegal drug is a controlled substance as defined in R.S. 40:961 et seq.—*Controlled Dangerous Substance*.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:460.10.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1323 (July 1998).

§1302. Screening and Referral Process

A. All adult applicants for and recipients of FITAP will be screened for the use of or dependency on illegal drugs at initial application and redetermination of eligibility using a standardized drug abuse screening test approved by the Department of Health and Hospitals, Office of Alcohol and Drug Abuse (OADA).

1. When the screening process indicates that there is a reason to suspect that a recipient is using or dependent on illegal drugs, or when there is other evidence that a recipient is using or dependent on illegal drugs, the caseworker will refer the recipient to OADA to undergo a formal substance abuse assessment which may include urine testing. The referral will include a copy of the screening form, a copy of the release of information form, and a photograph of the individual for identification purposes.

2. Additionally, if at any time the OFS has reasonable cause to suspect that a recipient is using or dependent on illegal drugs based on direct observation or if OFS judges to have reliable information of use or dependency on illegal drugs received from a reliable source, the caseworker will refer the recipient to OADA to undergo a formal substance abuse assessment which may include urine testing. All such referrals will require prior approval by the supervisor of the caseworker.

B. OADA will advise OFS of the results of the formal assessment. If the formal assessment determines that the recipient is not using or dependent on illegal drugs, no further action will be taken unless subsequent screening or other evidence indicates a reasonable suspicion of illegal drug dependency or use. If the formal assessment determines that the recipient is using or dependent on illegal drugs, OADA will determine the extent of the problem and recommend the most appropriate and cost-effective method of education and rehabilitation. The education or rehabilitation plan will be provided by OADA or by a contract provider and may include additional testing and monitoring. The OADA assessment will include a determination of the recipient's ability to participate in activities outside of the rehabilitation program.

C. Child care and transportation costs required for participation in the drug screening, testing, education and rehabilitation program will be paid by the Office of Family Support.

D. If residential treatment is recommended by OADA and the recipient is unable to arrange for the temporary care of dependent children, OFS and/or OADA will coordinate with the Office of Community Services to arrange for the care of such children.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:460.10.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1323 (July 1998).

§1303. Failure to Cooperate

A. Failure or refusal of a recipient to participate in drug screening, testing, or participation in the education and rehabilitation program, without good cause, will result in the following.

1. The recipient's needs will be removed from the FITAP cash benefits for three months. Eligibility of the other family members will continue during this three-month period.

2. If the recipient cooperates during this three-month period, the recipient will regain eligibility for cash benefits effective the fourth month.

3. If the recipient does not cooperate during this three-month period, the FITAP cash case for the entire family will be closed effective the fourth month and will remain closed until the individual cooperates.

4. A subsequent failure to cooperate will result in case closure until the recipient cooperates.

5. *Cooperation* is defined as participating in the component in which the recipient previously failed to cooperate. This includes drug screening, drug testing, or satisfactory participation for two weeks in an education and rehabilitation program.

B. If after completion of education and rehabilitation, the recipient is subsequently determined to use or be dependent on illegal drugs, the recipient will be ineligible for FITAP cash benefits until such time that OADA determines that the individual has successfully completed the recommended education and rehabilitation program and is drug free. The eligibility of other family members will not be affected as long as the individual participates in the education and rehabilitation program.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:460.10.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1323 (July 1998).

Madlyn B. Bagneris
Secretary

9807#080

RULE

Department of Transportation and Development Office of the General Counsel

Cash Management Plan
(LAC 70:I.Chapter 11)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development hereby adopts a rule entitled "Department of Transportation and Development Cash Management Plan," in accordance with R.S. 48:251(D).

Title 70 TRANSPORTATION

Part I. Office of the General Counsel

Chapter 11. Cash Management Plan

§1101. Phased Funding

The department will initiate phased funding of multi-year construction projects by only appropriating sufficient funds in any fiscal year to pay for anticipated actual construction contract obligations incurred in that fiscal year. A multi-year phased funding plan will be developed for each long-term construction contract approved by the secretary for phased funding. The phased funding plan will provide annual anticipated expenditure projections over the life of the project based on contractor supplied information and data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:251(D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 24:1324 (June 1998).

§1103. Project Eligibility for Phased Funding

In order to qualify for phased funding, the proposed project must be a multi-year construction and/or renovation project which is either:

1. federally aided and exceeding \$10,000,000 in estimated total cost; or

2. a purely state-funded or TIMED project exceeding \$5,000,000 in estimated total cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:251(D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 24:1324 (June 1998).

Frank M. Denton
Secretary

9807#029

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Resident Game Hunting Season—1998-99
(LAC 76:XIX.101 and 103)

In accordance with the notice of intent published in the March 1998 *Louisiana Register*, the Louisiana Wildlife and Fisheries Commission, at its regular monthly meeting in July, hereby amends its regulations on open hunting season dates, bag limits, methods of taking, and rules and regulations on department-operated wildlife management areas for the period September 1, 1998 through August 31, 1999. Authority to establish regulations is vested in the commission by §115 of Title 56 of the Louisiana Revised Statutes of 1950.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting

Chapter 1. Resident Game Hunting Season

§101. General

The Resident Game Hunting Season, 1998-99 regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the Regulation Pamphlet may be obtained from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998).

§103. Resident Game Birds and Animals 1998-99

A. Shooting Hours. One-half hour before sunrise to one-half hour after sunset.

B. Consult Regulation Pamphlet for seasons or specific regulations on wildlife management areas or specific localities.

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	Nov. 14-Feb. 28	10	20
Rabbit	Oct. 3-Feb. 28	8	16
Squirrel	Oct. 3-Feb. 14	8	16
Pheasant	Nov. 14-Jan. 31	2 (Cock Only)	4
Deer	See Schedule	1 Antlered and 1 Antlerless (When Legal)	6

C. Deer Hunting Schedule

Area	Archery	Muzzle Loader (All Either Sex)	Still Hunt	With or Without Dogs
1	Oct. 1-Jan. 31	Nov. 14-Nov. 20 Jan. 25-Jan.31	Nov.21-Dec. 4 Jan. 9-Jan.24	Dec. 5- Dec.13 Dec. 19- Jan.8
2	Oct. 1-Jan. 31	Oct. 17-Oct. 23 Jan. 4-Jan. 10	Oct. 24-Dec.4	Dec. 5- Jan. 3
3	Sept.19- Jan.19	Oct. 5-Oct. 9 Dec. 12-Dec. 18	Oct. 10-Dec.6 Dec. 19-Jan.3	
4	Oct. 1-Jan. 31	Nov. 14-Nov. 20 Jan. 4-Jan. 10	Nov. 21-Jan.3	
5	Oct. 1-Jan. 31	Nov. 14-Nov. 20 Jan. 4-Jan. 10 (Bucks Only)	Nov.21-Nov.29	
6	Oct. 1-Jan. 31	Nov. 14-Nov. 20 Jan. 25-Jan. 31	Nov. 21-Dec.4	Dec. 5- Dec.13 Dec.19- Jan.24
7	Oct. 1-Jan. 31	Oct. 3-Oct. 9 Jan. 18-Jan. 24	Oct.10-Oct.25 Nov. 21-Dec.6	Dec.12- Jan.17

D. Modern Firearm Schedule (Either Sex Seasons)

Area	Basic Season Dates	Total Days	Exceptions (Those portions of the following parishes)
1	Nov.21-22, 27-29 Dec.5-6, 12-13	9	Nov.21-22, 27-29 (Franklin, Catahoula, LaSalle, Caldwell) Nov.21-22, 27-29, Dec.5-6 (Avoyelles, Grant, Rapides)
2	Oct.24-25, Oct.31-Nov. 1, Nov. 7-8, 27-29, Dec. 5-6	11	Oct.24-25, Nov.27-29 (Caldwell, LaSalle) Oct.24-25, Nov.27-29, Dec.5-6 (Avoyelles)
3	Oct.10-11, 24-25, Oct.31-Nov.1, Nov.7-8, 27-29	11	Oct.10-11, Nov.27-29, Dec.5-6 (St. Landry)
4	Nov.21-22, 27-29	5	Nov.21-22, 27-29, Dec.5-6, 12-13 (East Carroll--that portion lying between the Mississippi River Levee and the Mississippi River)
5	None		

6	Nov.21-22, 27-29, Dec.5-6, 12-13	9	Nov.21-22, 27-29, Dec.5-6 (Avoyelles, Rapides, St. Landry)
7	Oct.10-11, Nov.21-22, 27-29, Dec.12-13	9	

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998).

Thomas M. Gattle, Jr.
Chairman

9807#086

RULE

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

White-Tailed Deer Importation (LAC 76:V.117)

(Editor's Note: The following rule, published on page 1140 of the June 1998, *Louisiana Register*, is being repromulgated to correct typographical errors.)

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§117. White-Tailed Deer Importation

A. Definitions

White-Tailed Deer—any animal of the species *Odocoileus virginianus*.

B. Permits. No person shall import, or cause to be imported, white-tailed deer into the state of Louisiana without first notifying the Department of Agriculture and Forestry and obtaining a current permit number. The permit number shall be included on the certificate of veterinary inspection and shall accompany the shipment of white-tailed deer. The permit number and certificate of veterinary inspection shall be made available to Department of Wildlife and Fisheries personnel upon request.

C. Import Restrictions

1. No person shall import or cause to be imported any white-tailed deer from the states of California, Colorado, Connecticut, Delaware, Michigan, New Jersey, New York, Pennsylvania, Rhode Island, South Dakota, or Wyoming. This shall include any white-tailed deer that have been confined within these states, or have been in direct contact with deer of any species from these states, within 180 days of entry into Louisiana.

2. No person shall import or cause to be imported any white-tailed deer without written proof of a negative test for tuberculosis in accordance with the *Tuberculosis Eradication in Cervidae Uniform Methods and Rules*, as published by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

3. No person shall import, or cause to be imported, white-tailed deer without written proof of a negative test for brucellosis in accordance with the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* once published by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service. Until such time as the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* are published, all white-tailed deer 6 months of age and older entering Louisiana shall be tested negative for brucellosis within 30 days prior to entry into Louisiana, and written proof thereof shall be provided, unless the white-tailed deer originate from a herd which has been officially declared a certified brucellosis-free herd by the state of origin.

4. No person shall import, or cause to be imported, any white-tailed deer for release into the wild or into any enclosure not specifically licensed for the possession of white-tailed deer.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:6(10), (13) and (15), R.S. 56:20 and R.S. 56:171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:1140 (June 1998), repromulgated LR 24:1325 (July 1998).

Thomas M. Gattle, Jr.
Chairman

9807#002

Notices of Intent

NOTICE OF INTENT

**Department of Agriculture and Forestry
Forestry Commission
and
Department of Revenue
Tax Commission**

Timber Stumpage (LAC 7:XXXIX.101-111)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Forestry, and the Department of Revenue, Tax Commission, propose to adopt regulations under the authority of R.S. 3:4274 and R.S. 47:1837 for the purpose of implementing the provisions of R.S. 47:633 which require the two commissions to jointly determine annually on the second Monday of December the then current average stumpage market value of trees and timber and of pulpwood; which valuation becomes effective, by law, on the first day of January of the following year and continuing until the next succeeding January.

No preamble concerning the proposed rules is available.

TITLE 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 1. Timber Stumpage

§101. Authority

The Louisiana Forestry Commission and the Louisiana Tax Commission adopt these regulations under the authority of LA R.S. 3:4274 and R.S. 47:1837 for the purpose of implementing the provisions of LA. R.S. 47:633 which require the two commissions to jointly determine annually on the second Monday of December the then current average stumpage market value of trees and timber and of pulpwood; which valuation becomes effective, by law, on the first day of January of the following year and continuing until the next succeeding January.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 4:9 (January 1978), amended LR 5:7 (January 1979), LR 6:728 (December 1980), LR 7:627 (December 1981), LR 8:651 (December 1982), LR 9:848 (December 1983), LR 10:1038 (December 1984), LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission, LR 12:819 (December 1986, LR 13:432 (August 1987), LR 14:9 (January 1988), LR 15:5 (January 1989), LR 16:16 (January 1990), LR 17:476 (May 1991), LR 18:6 (January 1992), LR 19:611 (May 1993), LR 20:408 (April 1994), LR 21:930 (September 1995), LR 21:1069 (October 1995), amended by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 22:581 (July 1996), LR 23:943 (August 1997), LR 24:

§103. Calculation of Current Average Stumpage Market Value

A. The current average market value of timber and

pulpwood, unless otherwise provided by law, shall be based exclusively on sales of timber and pulpwood in the first two quarters of the year in which the Commissions are to meet and in the last two quarters of the preceding year as reported to the Louisiana Department of Revenue and Taxation and as published in the "Quarterly Report of Forest Products" by the Louisiana Department of Agriculture and Forestry.

B. The current average market value of both timber and pulpwood shall be calculated by use of generally accepted statistical methods that take into account both quantity and price paid for the various forest products.

C. Upon receipt and verification of the sales of timber and pulpwood for the second quarter of the year in which the Commissions are to meet the Louisiana Department of Agriculture and Forestry, Office of Forestry shall prepare a recommendation to the commissions as to the current average stumpage market value of each category and subgroup of timber and pulpwood based on the date and method of calculation authorized by Subsections A and B of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:

§105. Notice

A. The Office of Forestry shall annually publish in the November issue of the *Louisiana Register* a notice of the date, time and place of the joint meeting of the Commissions required by law to be held on the second Monday of December together with the recommendations of the Office of Forestry and the data used to determine such recommendations.

B. The Office of Forestry upon completion of its recommendations, shall send a copy of its recommendations and the data used as the basis for the recommendations to all interested parties who have requested a copy of the recommendation.

C. Notice of the commissions' determination of the market value of trees, timber and pulpwood shall be immediately sent to all interested parties who have requested notice or who are required by law to receive notice and shall be published in the next available edition of the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:

§107. Annual Determination of Current Average Stumpage Market Value

At the annual meeting held by the commissions to determine the current average stumpage market value of timber and pulpwood the commissions shall jointly determine the stumpage market value based exclusively on the sales of timber as reported to the Louisiana Department of Revenue and as published in the *Quarterly Report of Forest Products*" by the Louisiana Department of Agriculture and Forestry. All comments and input submitted by interested parties at this

meeting shall be considered by the commissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:

§109. Product Categories

A. The following categories and subgroups are to be used in determining the timber stumpage values based on current average stumpage market values to be used for severance tax computation:

1. Pine Trees and Timber
2. Hardwood Trees and Timber
3. Pine Chip and Saw
4. Pine Pulpwood
5. Hardwood Pulpwood

No forestry product shall be moved from the trees and timber category to the pulpwood category or vice versa by the commissions without a prior adjudicatory hearing held in accordance with the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:

§111. Stumpage Values

The Louisiana Forestry Commission, and the Louisiana Tax Commission, as required by R.S. 47:633, determined the following timber stumpage values based on current average stumpage market values to be used for severance tax computations for 1998:

1. Pine Sawtimber	\$ 392.40/MBF \$ 49.05/Ton
2. Hardwood Sawtimber	\$ 207.96/MBF \$ 21.89/Ton
3. Pine Chip and Saw	\$ 89.53/Cord \$ 33.16/Ton
4. Pine Pulpwood	\$ 25.46/Cord \$ 9.43/Ton
5. Hardwood Pulpwood	\$ 15.79/Cord \$ 5.54/Ton

B. All values for future years shall be determined in accordance with prevailing law in these regulations; which values will be published in the *Louisiana Register* as provided for in these rules.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:

A public hearing will be held on these rules August 25, 1998, at 9:30 a.m. in the auditorium at the Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA. 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the public hearing.

All interested persons may submit written comments on the proposed amendments through August 25, 1998, to Don

Feduccia, Department of Agriculture and Forestry at the above address.

Burton D. Weaver, Jr., Chairman
Forestry Commission

Malcom Price, Chairman
Tax Commission

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Timber Stumpage**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no fiscal impact to state or local government as a result of this proposed action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections by state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no measurable effect on directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment.

Skip Rhorer
Assistant Commissioner
9807#039

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Advisory Commission on Pesticides**

Pesticide Restrictions (LAC 7:XXIII.143)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, proposes to amend regulations regarding applications of certain pesticides that may be applied by commercial applicators. These rules comply with and are enabled by R.S. 3:3203, and R.S. 3:3223.

No preamble regarding these rules is available.

The text of this proposed rule can be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons should submit written comments on the proposed rules to Bobby Simoneaux through August 25, 1998 at 5825 Florida Boulevard, Baton Rouge, LA 70806.

A public hearing will be held on these rules on August 25, 1998 at 9:30 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pesticide Restrictions**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs or savings to state or local governmental units. The proposed rule change adds one ward of Evangeline Parish to the existing list of parishes where the applications of certain pesticides are prohibited annually between March 15 and September 15.
- 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 effect on the estimated 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 effect on competition and employment.

Edward "Skip" Rhorer
Assistant Commissioner
9807#012

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Office of the Secretary**

Economic Development Award Program
(EDAP) (LAC 13:I.Chapter 60)

In accordance with R.S. 51:2341, notice is hereby given that the Department of Economic Development, Office of the Secretary, proposes to amend rules and regulations for the Economic Development Award Program. The intent is to amend the rules in order to clarify the purpose of the program, criteria for eligibility, application submission and review process, and to streamline the contract and payment process.

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

The amended rules are effective July 5, 1998 as an emergency rule and will remain in effect for 120 days or until a final rule is promulgated, whichever occurs first.

Interested persons may comment on the proposed rules in writing until September 20, 1998 to Randy Rogers, National Marketing Director, Department of Economic Development, Post Office Box 94185, Baton Rouge, LA 70804-9185 or 101

France Street, Suite 202, Baton Rouge, Louisiana 70802.

Kevin P. Reilly, Sr.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Economic Development
Award Program (EDAP)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no anticipated implementation costs to state or local government as a result of these rule changes.
The Department of Economic Development has adopted rules clarifying the following sections of the Economic Development Award Program: LAC 13:I.6005 to remove confusing or redundant language; LAC 13:I.6009 to provide the time frame that a project is required to begin; LAC 13:I.6011 to clarify required information in the application process; LAC 13:I.6013 to clarify the submission and review process for EDAP applications by removing unnecessary language; LAC 13:I.6015 to streamline the contract and payment process.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effects on revenue collections are anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The rules for the Economic Development Award Program have been revised to reduce the confusion over the purpose of the program; eligible companies, reimbursable costs and to eliminate duplicate rules. This will streamline the application, contract and payment process by removing confusing terminology, modifying reimbursable costs and changing the requirement in contracts from "approved invoices" to "required documentation" which will transfer responsibility for confirming approved expenditures to an internal or external auditor.
The addition of architectural costs as a reimbursable expense will have no fiscal impact on the parties involved in the application process.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This program's goal will be to reduce unemployment and the risk of future unemployment by assisting businesses through the incentive.

Harold Price
Assistant Secretary
9807#077

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Office of the Secretary**

Regional Initiatives Program
(LAC 13:I.Chapter 70)

In accordance with R.S. 51:2341, notice is hereby given that the Department of Economic Development, Office of the Secretary proposes to promulgate rules and regulations in LAC

13:I.Chapter 70 for the Regional Initiatives Program.

The full text of this notice of intent can be viewed in the emergency rule section of this issue of the *Louisiana Register*.

The proposed rules are to become effective immediately as an emergency rule and will remain in effect for 120 days or until a final rule is promulgated, whichever occurs first.

Interested persons may comment on the proposed rules in writing until August 20, 1998 to Randy Rogers, National Marketing Director, Department of Economic Development, Post Office Box 94185, Baton Rouge, LA 70804-9185 or 101 France Street, Suite 202, Baton Rouge, LA 70802.

Kevin P. Reilly, Sr.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Regional Initiatives Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no anticipated implementation costs to state or local governmental units as a result of these rule changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effects on revenue collections are anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The rules are being revised to benefit a RIP applicant to allow certain ineligible costs to be considered eligible if approved by the Secretary.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The rule changes will allow the RIP applicant to be more competitive in responding to inquiries from industrial/business prospects considering their region.

Harold Price
Assistant Secretary
9807#081

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Office of the Secretary**

**Workforce Development and Training Program
(LAC 13:I.Chapter 50)**

In accordance with R.S. 51:2331, notice is hereby given that the Department of Economic Development, Office of the Secretary, proposes to amend rules and regulations for the Workforce Development and Training Program. The intent is to amend the rules in order to clarify the purpose of the program, criteria for eligibility, application submission and review process, and to streamline the contract and payment process.

The full text of the amended rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

The proposed amendments are effective July 5, 1998 as an

emergency rule and will remain in effect for 120 days or until a final rule is promulgated, whichever occurs first.

Interested persons may comment on the proposed rules in writing until September 20, 1998 to Randy Rogers, National Marketing Director, Louisiana Department of Economic Development, Post Office Box 94185, Baton Rouge, LA 70804-9185 or 101 France Street, Suite 202, Baton Rouge, Louisiana 70802.

Kevin P. Reilly, Sr.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Workforce Development and
Training Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The Department of Economic Development has adopted rules clarifying the following sections of the Workforce Training and Development Program: LAC 13:I.5007, to clarify the program descriptions; LAC 13:I.5009 to clarify the eligible applicants for the program; LAC 13:I. to outline the criteria for the training programs; LAC 13:I. to remove redundant language that is only necessary in the contract phase as opposed to the application phase; LAC 13:I. to simplify the submission and review of applications; LAC 13:I. to streamline the contract and payment process and remove trainees wages as an eligible expense. There are no anticipated implementation costs to state or local government as a result of these rule changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effects on revenue collections are anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The rules for Workforce have been revised to reduce the confusion over the purpose of the program, eligible companies, reimbursable costs and to eliminate duplicate rules. This will streamline the application, contract and payment process by removing confusing terminology, modifying reimbursable costs and changing the requirement in contracts from "approved invoices" to "required documentation" which will transfer responsibility for confirming approved expenditure of funds to an internal or external auditor.
LAC 13:I.5017.B removes the eligibility of trainees wages. This step is being taken because no other state with a workforce training program reimburses for wages, other than for the instructors or training coordinators. Historically, this has been the most problematic eligible cost, and has caused the most confusion and dissension with the program.
There will be no anticipated fiscal impact on the parties involved in the application process.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This program's goal will be to reduce unemployment and the risk of future unemployment by assisting businesses through the incentive.

Harold Price
Assistant Secretary
9807#085

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Racing Commission

Apprentice's Contract (LAC 35:XLI.705)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 46:XLI.705 "Apprentice's Contract," in order to shorten an apprentice jockey's apprentice period from 3 to 2 years, which will be consistent with other racing jurisdictions.

The text of this proposed rule can be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

The domicile office of the Louisiana State Racing Commission is open from 8AM to 4PM and interested parties may contact Paul D. Burgess, executive director; C. A. Rieger, assistant director; or Tom Trenchard, administrative manager, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through Friday, August 7, 1998, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.

Paul D. Burgess
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Apprentice's Contract

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This action is not anticipated to affect revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action benefits apprentice jockeys by shortening their apprenticeship period, thereby allowing them to race as full-fledged jockeys sooner.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This action has no effect on competition nor employment.

Paul D. Burgess
Executive Director
9807#009

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Racing Commission

Displaying Daily Double Rule (LAC 35:XIII.10521)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 35:XIII.10521 "Displaying Daily

Double Rule," in order to change rule posting requirements. It will no longer be necessary to publish the daily double rule in an association's daily racing form, however it will now be necessary to post the rule in a conspicuous place in wagering areas. This is consistent with other wagering rules.

The text of this proposed rule can be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

The domicile office of the Louisiana State Racing Commission is open from 8AM to 4PM and interested parties may contact Paul D. Burgess, executive director; C. A. Rieger, assistant director; or Tom Trenchard, administrative manager, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through Friday, August 7, 1998, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.

Paul D. Burgess
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Displaying Daily Double Rule

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This action is not anticipated to affect revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action benefits patrons by requiring the daily double rule to be posted in plain view in and around wagering areas.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This action has no effect on competition nor employment.

Paul D. Burgess
Executive Director
9807#010

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Racing Commission

Field Less Than Six (LAC 35:XIII.11115)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 35:XIII.11115 "Field Less Than Six," in order to permit trifecta wagering when there are six or more horses running (previously eight) in a race.

The text of this proposed rule can be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

The domicile office of the Louisiana State Racing Commission is open from 8AM to 4PM and interested parties may contact Paul D. Burgess, executive director; C. A. Rieger, assistant director; or Tom Trenchard, administrative manager, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through Friday, August 7, 1998, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.

Paul D. Burgess
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Field Less Than Six**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This action could possibly affect revenue collections positively as a result of increased trifecta wagering; it is not measurable, however.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action benefits patrons and horsemen by allowing trifecta wagering on races with as few as six horses.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This action has no effect on competition nor employment.

Paul D. Burgess
Executive Director
9807#011

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Certification
in Dance (LAC 28:I.903)

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, an amendment to Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. The proposed amendment adds requirements for certification in Dance.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§903. Teacher Certification Standards and Regulations
A. Bulletin 746**

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.
HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education LR 24:

**Bulletin 746—Teacher Certification Standards
and Regulations**

* * *

Dance

The minimal requirements for certification in dance are a total of 30 semester hours.

- | | |
|---|-------------------|
| 1. Dance Techniques (selected from ballet, folk, ethnic, jazz, modern dance, social, and tap) | 12 semester hours |
| 2. Choreography and Composition | 3 semester hours |
| 3. Dance Pedagogy | 3 semester hours |
| 4. Dance History | 3 semester hours |
| 5. Movement Science (selected from anatomy, biomechanics, kinesiology, or exercise physiology) | 3 semester hours |
| 6. Dance Electives (selected from technical production, dance performance, dance aesthetics/criticism, dance accompaniment/rhythmic analysis, movement analysis/dance somatics, creative/children's dance, dance philosophy, and arts appreciation courses in dance, music, theatre, visual arts or fine arts survey) | 6 semester hours |

Note: Any teacher who holds a valid Louisiana teaching certificate may have dance education added to his/her certificate upon completion of the Specialized Academic Education Requirements in Dance listed above with the exception of six hours of Dance Electives.

* * *

Interested persons may submit comments until 4:30 p.m., September 10, 1998 to Jeannie Stokes, State 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 746—Certification in Dance**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The adoption of this proposed rule will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$60. Funds are available.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will have no effect on revenue collection.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will enable individuals who fulfill the requirements to become certified dance teachers. It will result in no additional costs to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not effect competition or employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9807#079

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Elementary Teacher
Certification Requirements (LAC 28:I.903)

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, an amendment to Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. The proposed amendment adds the Minimal Requirements for Approved Teacher Education Programs for Elementary Teachers, Grades 1-8. The new requirements will be mandatory September 1, 2003. Both the current and the proposed requirements will remain in Bulletin 746 until the current requirements are removed in 2003.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§903. Teacher Certification Standards and Regulations
A. Bulletin 746**

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.
HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education LR 24:

**Part IV—Elementary Teachers Minimal
Requirements for Approved Teacher Education
Programs for Elementary Teachers (Grades 1-8)**

According to Item (6)(a) of R.S. 17:7 as cited in the House of Representatives Database (August 1996), it is the responsibility of the Board of Elementary and Secondary Education to:

prescribe the qualifications and provide for the certification of teachers in accordance with applicable law, which qualifications and requirements shall be such to insure that certification shall be a reliable indicator of the minimum current ability and proficiency of the teacher to educate at the grade level and in the subject(s) to which the teacher is assigned.

Listed below are the 96 semester hours of minimum

requirements for certification as an elementary-level teacher in grades 1-8 in the State of Louisiana. These requirements are to be included in either the baccalaureate degree path or the alternate post-baccalaureate path leading to certification.

General Knowledge: 54 semester hours. These requirements are to provide the prospective elementary-level teacher with basic essential knowledge and basic functioning skills. For persons who have completed an undergraduate degree, the hours required under General Knowledge in the area of the college major shall be waived.

Arts: three semester hours.

Speech: three semester hours to stress oral communication skills.

English: 12 semester hours, of which six semester hours must be in grammar/composition.

Mathematics: 12 semester hours. Must include three semester hours in college algebra and three semester hours in geometry. May include three semester hours in computer and technology utilization.

Science: 15 semester hours. Must include three semester hours in biological science, three semester hours in physical science, and three semester hours in health science/education.

Social Studies: nine semester hours. Must include three semester hours in geography and three semester hours in Louisiana History. The remaining three semester hours must be selected from economics, history, and political science.

Knowledge of the Learner and the Learning Environment: 15 semester hours. These requirements are to provide the prospective elementary-level teacher with a fundamental understanding of the learner and the teacher/learning process.

Child Psychology: Three semester hours.

Educational Psychology: Three semester hours.

The Learner with Special Needs: Three semester hours.

Classroom Management: Three semester hours.

Multicultural Education: Three semester hours.

Teaching, Assessment, and the Application of Technology: 27 semester hours. These requirements are established to provide the prospective elementary-level teacher with fundamental pedagogical skills including assessment and the application of technology to be included in each of the courses listed below.

Reading: Nine semester hours to include the recognition and correction of reading problems of the learner.

Content Methodology: nine semester hours to include mathematics, science, social studies, and language arts.

Student Teaching: nine semester hours to include a minimum of 270 clock hours in student teaching with at least 180 of such hours spent in actual teaching. Persons who have completed a baccalaureate degree and have not successfully completed three years of teaching at the elementary level may complete either student teaching or a one-year internship under the supervision of the college/university.

The student teaching shall be under the control and supervision of the institution in which the student teacher is enrolled. Whether or not the school in which the student teaching is done is administered by the institution, the regular

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1443—Proprietary School
Commission—Student Protection Fund

teacher under whose direction the student teaching takes place shall be a representative of or approved by the school of education or department of education of the institution and shall be certified as a supervisor of student teaching. Student teaching in the summer shall be permitted only if the school has a 12-month school year or a bona fide full school year.

The application for certification shall indicate that the applicant has earned credit in student teaching. The applicant shall have spent a minimum of 270 clock hours in student teaching with at least 180 of such hours spent in actual teaching. A substantial portion of the 180 hours of actual student teaching shall be on an all-day basis. The teacher education program shall include (1) practical experience in actual classroom situations during a student’s sophomore year, and (2) field experiences in schools with varied socioeconomic and cultural characteristics.

Interested persons may submit comments until 4:30 p.m., September 10, 1998 to Jeannie Stokes, 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—Elementary Teacher
Certification Requirements**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

BESE’s estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$60. Funds are available.

**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 will be no additional costs or economic benefits as a result of this policy revision for persons who complete requirements for certification to teach elementary grades (1-8).

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There will be no effect on competition and employment as a result of this policy.

Marlyn Langley
Deputy Superintendent
Management and Finance
9807#069

Richard W. England
Assistant to the
Legislative Fiscal Officer

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, an amendment to Bulletin 1443, Proprietary School Commission, Rules and Regulations. The proposed amendment revises the specific procedure to provide for the cessation and resumption of payments into the Student Protection Fund as stated in R.S. 17:3141.18F, the Proprietary Schools Law.

**Bulletin 1443. Proprietary School Commission
Rules and Regulations**

* * *

Chapter 5. License

Section 503. Student Protection Fund

A. Initial (new) schools and change-of-ownership schools that apply for licensure shall be required to submit their first payment of \$1,000 with their application payable to the “Student Protection Fund” and mailed to the executive secretary of the Proprietary School Commission.

B. After July 1, 1997, those licensed proprietary schools who are submitting yearly license renewal information shall not be required to submit a Student Protection Fund payment with their renewal.

C. Resumption of payments into the Fund shall occur whenever the Fund balance is less than \$1 million (R.S. 17:3141.16F).

D. Yearly Student Protection Fund payments will begin again with those schools initially licensed after July 1, 1997. Those with licensure dates nearest to July 1, 1997, will begin the payments one year “after licensure by the Board” (R.S. 17:3141.16B(2)).

E. The payments will be a part of the yearly renewal process as established by statute and will be based upon the assessment/payment schedule provided in R.S. 17:3141.16B(2).

F. The payments shall cease again when the Fund accumulates to a minimum of \$1 million, and payments will begin again, if applicable, with those schools who have not paid a yearly renewal contribution as described in the above section.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.

Interested persons may submit comments until 4:30 p.m., September 10, 1998 to Jeannie Stokes, State Board of

Board of Elementary and Secondary Education

Weegie Peabody
Executive Director

Bulletin 1566—Pupil Progression and Remedial
Education—1998 (LAC 28:1.907)

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1443—Proprietary
School Commission—Student Protection Fund**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Board of Elementary and Secondary Education's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$60. Funds are available.

There will be no cost of implementation of this change to either the licensed proprietary schools or the Department of Education.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be a decrease in revenue, because each of the approximately 170 proprietary schools will not be paying a yearly Student Protection Fund payment based upon their previous year's collected gross tuition. There is, however, no accurate way to give a concrete figure as to what the decrease will be, because these payments differ from year to year and from school to school. A schedule of payments is provided in R.S. 17:3141.16 B(2). Each year's payment is dependent on how economically well the school did/did not do in the respective year. In FY 1996-97 approximately \$60,000 in Student Protection Fund fees were collected from schools renewing their licenses.

Due to this newly adopted Board of Elementary and Secondary Education policy, "initial (new) schools and change-of-ownership schools applying for licensure shall be required to continue to submit a payment of \$1,000 with their application payable to the "Student Protection Fund." In FY 1996-97, there were 17 new schools and five change-of-ownership schools that were approved for a proprietary school license. The \$1,000 amount is consistent with R.S. 17:3141.16 B(2) and this contribution will allow for parity among the licensed schools who are eligible to access the Fund if necessary. The total amount of the Fund will also continue to increase monthly due to the estimated accrued interest of \$4,000-\$5,000.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The owners of the licensed proprietary schools will monetarily benefit from not being required to pay a yearly Student Protection Fund payment that could range from \$200 to \$2,000 based upon their gross student tuition and the schedule provided in the statute. The owners of new schools and change-of-ownership schools will continue to be charged the initial \$1,000 fee upon licensure.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There will be no effect on competition or employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9807#063

Richard W. England
Assistant to the
Legislative Fiscal Officer

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 hereby proposes to amend Bulletin 1566 - Guidelines for Pupil Progression. The Guidelines, to be implemented with the 1998-99 school session, were revised to incorporate changes in state legislation, R.S. 17:24.4, and changes in the state's educational assessment program - LEAP for the 21st Century. Bulletin 1566 is referenced in LAC 28:1.907.A.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§907. Pupil Progression and Remedial Education**

A. Bulletin 1566

1. Bulletin 1566 (Revised 1998), Guidelines for Pupil Progression, which includes regulations for the implementation of state-funded education remedial programs, is adopted.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 7:24.4 and R.S. 17:394-400.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education in LR 24:
Preface

"The goal of the public educational system is to provide learning environments and experiences, at all stages of human development, that are humane, just and designed to promote excellence in order that every individual may be afforded an equal opportunity to achieve his full potential" (Preamble to Article VIII, Louisiana Constitution). This goal statement from the Constitution suggests that public elementary and secondary education is only a part of a continuum of services that should be available to assist each individual to identify and reach his/her own educational or training goals as quickly and effectively as possible.

The amendment and enactment of the Louisiana Competency-Based Education Program, Act 750, (R.S. 17:24.4) by the Louisiana State Legislature in Regular Session during the summer of 1997, was the result of an ever-increasing demand by Louisiana's taxpayers for a better accounting of their educational dollars. A forerunner of Act 750 was Act 621, the public school Accountability Law. This far-reaching statute called for the establishment of a program for shared educational accountability in the public educational system of Louisiana; the provision for a uniform system of evaluation of the performance of school personnel; the attainment of established goals for education; the provision of information for accurate analysis of the costs associated with public educational programs; the provision of information for an analysis of the effectiveness of instructional programs; and

the annual assessment of students based on state content standards.

The Louisiana Competency-Based Education Law evolved from the Accountability Law into a unique program that encompasses all recent educational statutes, providing opportunities for students to learn systematically and opportunities for educators to gear instructional programs to achievement based on specific objectives.

The Louisiana Competency-Based Program is based on the premise that the program must provide options to accommodate the many different learning styles of its students. Every effort is being made to tailor the curriculum to the needs of the individual student, including the student with special instructional needs who subsequently needs curricular alternatives. Such a practice enhances the probability of success, since the student is provided with an instructional program compatible with his individual learning styles as well as with his needs.

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 test as determined by the State Board of Elementary and Secondary Education (SBESE) for student promotion and to provide guidelines relative to the content of Pupil Progression Plans.

The amended sections relate to statewide content standards for required subjects, to the Louisiana Educational Assessment Program (LEAP), and to the comprehensive Pupil Progression Plans of each of the 66 local educational agencies.

A "Pupil Progression Plan" is a comprehensive plan developed and adopted by each parish or city school board; it shall be based on student performance on the Louisiana Educational Assessment Program with goals and objectives that are compatible with the Louisiana Competency-Based Education Programs and that supplement standards approved by the State Board of Elementary and Secondary Education (SBESE). A Pupil Progression Plan shall require the student's proficiency on certain tests as determined by the SBESE before he or she can be recommended for promotion.

The revised Section G of the Competency-Based Education Program, Act 750, addresses the Pupil Progression Plan as follows:

Each city and parish school board shall appoint a committee which shall be representative of the parents of the school district under the authority of such school board. Each committee shall participate and have input in the development of the pupil progression plans provided for in this Section. Each parish or city school board shall have developed and shall submit to the State Department of Education a Pupil Progression Plan which shall be in accordance with the requirements of this section and be based upon student achievements, performance, and proficiency on tests required by this section. Each parish or city school board plan for pupil progression shall be based on local goals and objectives which are compatible with the Louisiana Competency-Based Education Program enumerated in R.S. 17:24.4 (B), which comply with the provisions of R.S. 17:24.4 (A) (3), and which supplement the performance standards approved by the State

Board of Elementary and Secondary Education. Each local school board shall establish a policy regarding student promotion or placement which shall comply with the provisions of this Section, including the requirements for pupil progression plans. Based upon the local school board policy, which policy shall be developed with the participation and input of the committee provided for in this Subsection G, each teacher shall, on an individualized basis, determine promotion or placement of each student. Each local school board may review promotion and placement decisions in order to insure compliance with the established policy. Review may be initiated by the local board, superintendent, or parent or guardian. Those students who fail to meet required proficiency levels on the state administered criterion-referenced test of the Louisiana Educational Assessment Program shall receive remedial education programs that comply with regulations adopted by the State Board of Elementary and Secondary Education.

Those persons responsible for developing local pupil progression plans must build their plans on a broad-based instructional program fluid enough to accommodate the individual student's previous experience, his acquired skills and abilities, and his deficiencies and disabilities, while at the same time maintaining a balance in the student's curricular experiences.

Section I

General Procedure for Development, Approval and Revision of a Pupil Progression Plan

A. Development of a Local Plan

1. Committee of Educators. The SBESE and the LDE require assurances that the LEA Supervisors of Elementary and Secondary Education, Special Education, Vocational Education, Adult Education, Chapter I, teachers and principals and other individuals deemed appropriate by the local Superintendent are included in the development of the parish pupil progression plan.

2. Committee of Parents

a. Act 750 of the 1979 Louisiana Legislature state that "each city and parish school board shall appoint a committee which shall be representative of the parents of the school district under the authority of such school board. Such committees shall participate and have input in the development of the pupil progression plan."

b. A committee representing the parents of the school district shall be appointed by each city and parish school board. Procedures shall be established whereby this committee shall be informed of the development of the pupil progression plan. Opportunities shall be provided for parents to have input into the development of the local plan.

c. Due process and equal protection considerations require the local board to include on the parent committee representatives of various disability groups, racial, socio-economic, and ethnic groups from the local district.

d. The local board shall provide staff support to the parent committee.

B. Description of Committees

The local school system shall keep on file a written description of the method of selection, composition, function and activities of the local committees.

C. Public Notice

1. Meetings of the local committees shall be conducted within the legal guidelines of Louisiana's Open Meetings Law. (R.S. 42.4.2(A) (2); Attorney General's Opinion Number 79-1045).

2. The local Pupil Progression Plan shall be adopted at a public meeting of the local board, notice of which shall be published pursuant to the Open Meetings Law. It shall be stated that once the plan is adopted, it will be submitted to the SBESE for approval pursuant to Act 750. Once the plan is approved by the SBESE, the policies in the local plan shall be incorporated into the policies and procedures manual of the local school board.

3. The statement defining the committee-selection process and the Pupil Progression Plan are public documents and must be handled within the guidelines of the Public Records Act (R.S. 44:1-42).

D. Approval Process

1. State Department of Education/State Board of Elementary and Secondary Education Approval. Upon adoption for submission by the local school board, the plan along with a formal submission statement shall be submitted annually to the Office of Student and School Performance for review by the LDE.

2. Review and Revision

a. Local Pupil Progression Plans must be accompanied by a completed checklist.

b. Local systems will be informed in writing of approval.

c. Local systems whose plans need revision will be informed of needed changes.

d. Local systems are to resubmit revised plans for final approval, following the procedures outlined in Part B under Public Notice.

Section II

Placement Policies: State Requirements

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 guidelines.

Based upon local school board policy pursuant to these guidelines, each teacher shall, on an individualized basis, determine promotion or placement of each student (Act 750, R.S. 17:24.4G). Local School Board policies relative to pupil progression will apply to students placed in regular education programs as well as to exceptional students in specially designed regular instructional programs 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).

No school board member, school superintendent, assistant superintendent, principal, guidance counselor, other teacher, or other administrative staff members of the school or the central staff of the parish or city school board shall attempt, directly or indirectly, to influence, alter, or otherwise affect the grade received by a student from his teacher (R.S. 17:414.2).

A. Regular Placement*

1. Promotion: Grades K-12. Promotion from one grade to another shall be based on the following statewide evaluative criteria:

a. Requirements in Bulletin 741, *Louisiana Handbook for School Administrators*

(1) Each plan shall include the school attendance requirements;

(2) Each plan shall include the course requirements for promotion by grade levels;

(3) Each plan shall include other applicable requirements.

b. Requirements of the Louisiana Educational Assessment Program

(1) Each plan shall include the statement that individual student scores reported by the LEAP shall be the principal criterion for student promotion.

(2) 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 all components of the Graduation Exit Examination in order to receive a high school diploma.

(3) Each plan shall include the function of the school building level committee/student assistance team as it relates to student promotion.

2. Retention: Grades K-12. Retention of a student shall be based upon the student's failure to meet the criteria established by local board for promotion and other criteria contained in these guidelines.

* Schools can only make recommendations to parents regarding student enrollment in kindergarten, since kindergarten is not mandatory.

3. Exceptional Students: Specially Designed Regular Instructional Program

a. The Specially Designed Regular Instructional Program will be for those students able to address state content standards with significant modifications in time, method and materials designed to assist them in mastery of these standards. Specially designed instruction may take place in regular classrooms, resource rooms, self-contained rooms special schools, homebased or hospital settings. The decision for placement in this program must be reflected in the student's Individual Educational Plan (IEP).

b. The Specially Designed Regular Instructional Program is expected to lead to a regular high school diploma.

c. Students in the Specially Designed Regular Instructional Program must demonstrate reasonable and continuous progress as determined by the following criteria:

(1) State Criteria

(a) Requirements of Louisiana Educational Assessment Program.

(2) Local Criteria

(a) Local options concerning accomplishments of IEP objectives written in accordance with Bulletin 1706 (subsections 440-459).

4. Acceleration

a. Grades K-8. The local school board shall establish written policies and procedures for the placement of students

who evidence that they will benefit more from the instructional program at an advanced grade level.

b. Grades 9-12. The local school board shall follow the policies and procedures established in Bulletin 741, *Louisiana Handbook for School Administrators*, and other local requirements for student acceleration.

5. Transfer Students. The local school board shall establish written policies for the placement of students transferring from all other systems and home study programs (public, nonpublic, (both in and out-of-state), and foreign countries).

B. Alternatives to Regular Placement. The local school board shall establish written policies for all alternatives to regular placement, including those for exceptional students, using state approved alternative curricula. Prior to a student's being removed from the regular program and being placed in an alternative program, written informed consent by the student's parents or guardians must be obtained.

1. Exceptional Students in Alternative to Regular Placement Programs

a. The Alternative to Regular Placement Program is for the exceptional student who is unable to meet state grade level standards. Instruction for the student may take place in a regular classroom, resource room, self-contained classroom, special school, homebased or hospital setting. The decision for placement in this program must be reflected in the student's IEP.

b. The Alternative to Regular Placement Program course of study is expected to lead to a Certificate of Achievement. Local systems shall apply to the Office of Special Educational Services for approval of commercially developed or a locally developed alternative curricula.

c. The student in the Alternative to Regular Placement Program must demonstrate reasonable and continuous progress as determined by the following evaluative criteria:

1. State Criteria

(a) Bulletin 741 requirements.

2. Local Criteria

(a) Local options concerning accomplishments of IEP objectives written in accordance with Bulletin 1706 (subsections 440-459);

(b) other local criteria.

C. Alternative Schools/Programs. The local school board may establish alternative schools/programs which shall respond to particular educational need(s) within the community.

D. Review of Placement

1. Review of promotion and placement decisions may be initiated by the local school board, superintendent and/or parent or guardian (Act 750; R.S. 17:24.4(G)).

2. Each local school board may adopt policies whereby it may review promotion and placement decisions in order to insure compliance with its local plan (Act 750; R.S. 17:24.4(G)).

E. Policies on Records and Reports

1. Local school systems shall maintain permanent records of each student's placement, K-12. Each record shall be maintained as a part of the student's cumulative file.

2. Student records for the purposes of these Guidelines shall include:

a. course grades;

b. scores on the Louisiana Educational Assessment Program;

c. scores on local testing programs and screening instruments necessary to document the local criteria for promotion;

d. information (or reason) for student placement (see definition of placement);

e. documentation of results of student participation in remedial and alternative programs;

f. special education documents as specified in the approved IDEA-Part B, LEA application;

g. a copy of the letter informing the parent of either the placement of the student in or the removal of the student from a remedial program.

h. a copy of the parent's written consent for either the placement of a student in or the removal of a student from an alternative to regular placement program.

i. a statement regarding written notification to parent to retention and due process procedures.

F. Policies on Due Process. Due process procedures for teachers, students, and parents shall be specified in each local Pupil Progression Plan as related to student placement. The local school system must assure that these procedures do not contradict the due process rights of exceptional students as defined in the IDEA-Part B.

Section III

Placement Policies: Local Option

In addition to the statewide mandatory criteria for student placement in Section II of these Guidelines, local school boards, by written local policies, may also establish local criteria to be used in determining student placement. Such criteria shall be compatible with the statewide criteria established in Section II and shall be submitted to the LDE as part of the local Pupil Progression Plan.

Local option criteria for Pupil Progression Plans shall conform to the following guidelines. Additionally, at the option of local school systems, the plans may include other factors to be considered in pupil placements.

A. Legislative Guidelines

1. Local school systems are encouraged to develop local criterion-referenced testing programs for local assessment use (Act 621; R.S. 17:391.7(G) and Act 750; R.S. 17:24(H)).

2. Local criteria for K-12 must supplement the grade level standards approved by the SBESE (Act 750; R.S. 17:24(G)).

3. Local criteria must be coordinated with statewide curricular standards for required subjects, to be developed as part of the competency-based education plan (Act 750; R.S. 17:24.4(E) and (G)).

B. Departmental Guidelines

1. Student scores on local testing programs may be used as additional criteria for determining pupil progression. Additional skills may be specified and tested for mastery at the local level as additional criteria for placement.

2. With reference to pupil placement, the local school system shall state the name of the instrument and publisher of

other testing and screening programs to be used locally in grades K-12 for regular and exceptional students.

C. Other Local Option Factors. In conjunction with the enumerated legislated guidelines 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.

Section IV

Regulations for the Implementation of Remedial Education Programs Related to the LEAP/CRT Program Preface

The regulations for remedial education programs approved by the State Board of Elementary and Secondary Education are an addendum to Bulletin 1566, *Guidelines for Pupil Progression*, Board Policy 4.01.90. The regulations provide for the development of local remedial education programs by local education agencies.

The Louisiana Department of Education shall recommend for approval by the SBESE only those local remedial education plans in compliance with these regulations.

A. Legal Authorization.

R.S. 17:24.4(G) provides that those students who fail to meet required proficiency levels on the state administered criterion-referenced tests of the Louisiana Educational Assessment Program shall receive remedial education programs that comply with regulations adopted by the State Board of Elementary and Secondary Education.

R.S. 17:394 - 400 is the established legislation for the remedial education programs.

B. Definition and Purpose

1. Definitions

a. *Remedial Education Programs*—are defined as local programs designed to assist students, including identified students with disabilities, to overcome their educational deficits identified as a result of the state's criterion-referenced testing program for grades 3,5,7, and the Graduation Test (R.S. 17:396, 397, 24.4 and Board Policy).

b. *Department*—is the Louisiana Department of Education.

c. *State Board*—is the State Board of Elementary and Secondary Education.

2. Purpose

a. 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 approved by the SBESE. 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).

b. The intent of remedial educational programs is to improve student achievement in the grade appropriate skills identified as deficient on the state's criterion-referenced testing program for grades 3, 5, 7, and the Graduation Test (R.S. 17:395 B and Board Policy).

c. Remediation shall be provided in English language

arts, mathematics, and writing to all eligible students beginning in either the summer of 1989 or the 1989-90 school year. Remediation shall be provided in social studies and science for those eligible students beginning in either the summer of 1990 or during the 1990-91 regular school year (R.S. 17:24.4 G; 395 B and C and Board Policy).

d. Beyond the goal of student achievement in grade appropriate skills, additional goals are to give students a sense of success, to prevent alienation from school, and to prevent their early departure from school (R.S. 17:395 B).

C. Responsibilities of the State Board of Elementary and Secondary Education

1. The SBESE shall perform the following functions in relation to the remedial education program.

a. Approve as a part of the Pupil Progression Guidelines (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, writing, mathematics, social studies and science (R.S. 17:399 A).

b. Approve remedial education programs submitted by local education agencies as a part of their local Pupil Progression Plan (R.S. 17:398 B).

c. Approve qualifications/certification requirements for remedial education teachers (R.S. 17:398 A).

d. Receive from the Department an annual evaluation report on local remedial education programs that meet the requirements of R.S. 17:400 B.

e. Approve the evaluation criteria developed by the Department for determining the effectiveness of remedial education programs (R.S. 17:399 B (2) and Board Policy).

D. State Funding of Remedial Education Programs

1. Remedial education funds shall be appropriated annually within the Minimum Foundation Program formula.

2. State remedial education funds shall be distributed to the parish and city school boards according to the distribution process outlined within the Minimum Foundation Program.

3. State funds for the remedial education program shall not be used to supplant other state, local, or federal funds being used for the education of such students (R.S. 17:399 (B)5). A plan for coordination of all state, local and federal funds for remediation must be developed by each LEA.

4. The use of state remedial education funds shall not result in a decrease in the use for educationally deprived children of state, local, or federal funds which, in the absence of funds under the remedial education program, have been made available for the education of such students (R.S. 17:399 (B)5).

5. For funding purposes, a student receiving remediation in English language arts, writing, mathematics, social studies and/or science, shall be counted for each area in which remediation is needed (R.S. 17:398 B).

6. Students in the State Remediation Program are also included in the student membership count for MFP funding purposes.

7. The remedial education program shall be coordinated with locally funded and/or federally funded remedial education programs, but shall remain as a separate remedial program.

8. If the Department determines through its monitoring authority that a city or parish board is not actually providing the type of remedial education program that was approved through its Pupil Progression Plan or is not complying with state evaluation regulations, the Department shall recommend appropriate action until such time as it is determined that the school board is in compliance with its approved Pupil Progression Plan and with state evaluation regulations.

9. The state and local funds expended in the program shall be included in the instructional parameters for each city or parish school board.

E. Criteria for State Approval

1. Student Eligibility

a. Any public elementary or secondary student, including an exceptional student in specially designed regular instructional programs, 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).

b. The failure of Special Education students to achieve performance standards on the state criterion-referenced tests does not qualify such students for special education extended school year programs (Board Policy).

2. Teacher Qualifications

a. Remedial teachers shall possess the appropriate certification/qualifications as required by the SBESE.

b. Parish and city school boards may employ an instructional paraprofessional under the immediate supervision of a regularly certified teacher to assist with the remediation. Paraprofessionals must have all of the following qualifications:

(1) Must be at least twenty years of age;

(2) Must possess a high school diploma or its equivalent; and

(3) Must have taken a nationally validated achievement test and scored such as to demonstrate a level of achievement equivalent to the normal achievement level of a tenth grade student (R.S. 17:398A and Board Policy).

c. Parish and city school boards may employ educators already employed as regular or special education teachers to provide remedial instruction. These educators may receive additional compensation for remedial instruction, provided the services are performed in addition to their regular duties (R.S. 17:398 A).

3. Program Requirements

a. Student Profile. The Remedial Education Student Profile for the LEAP/CRT, provided by the LDE shall be used by the local school system for providing remediation for each eligible student (Board Policy).

b. Coordination With Other Programs. The school system shall assure that coordination and communication occur on a regular basis among all who provide instruction for a student receiving remedial instruction (Board Policy).

c. Instruction

(1) Remediation shall be provided in English language arts, mathematics and writing to all eligible students beginning in either the summer of 1989 or the 1989-90 school year. Remediation shall be provided in social studies and science for those eligible students beginning in either the

summer of 1990 or during the 1990-91 regular school year (R.S. 17:24.4 G; 395 B and C and Board Policy).

(2) Instruction shall include but not be limited to the philosophy, the methods, and the materials included in the state approved curriculum guides (Board Policy 3.01.08).

(3) Remedial methods and materials shall supplement and reinforce those methods and materials used in the regular program (Board Policy).

(4) Each student achieving mastery criteria shall continue receiving instruction for maintenance of grade appropriate skills. The amount of instruction shall be based upon student need (R.S. 17:395.E).

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 Board-approved Louisiana State Standards in the corresponding state-approved curriculum guides (R.S. 17:395D and Board Policy).

(2) These mastery criteria shall be used in determining the extent of student achievement in those grade appropriate skills in English language arts, writing, mathematics, social studies, and/or science in which he was found deficient (R.S. 17:395 D, 17:24.4 G and Board Policy).

(3) School systems shall describe the methods used to measure student achievement of these criteria (R.S. 17:395D and Board Policy).

F. Local Program Development and Evaluation

1. Each parish and city school board shall develop annually a remedial education program as part of its Pupil Progression Plan, which complies with the established regulations adopted by the Department and approved by the SBESE pursuant to R.S. 17.24.4. The remedial education plan shall be reviewed annually by the Department prior to recommendation for approval by the SBESE (R.S. 17:395 A and Board Policy).

2. The remedial education plan shall describe all remedial instruction and proposals for program improvement. Proposals shall include a narrative that shall incorporate the following:

a. Program objective;

b. Student population to be served and the selection criteria to be used;

c. Methodologies, materials, and/or equipment to be used in meeting the remediation needs;

d. Brief description of the remedial course;

e. Plan for coordination of state, federal, and local funds for remediation;

f. Procedure for documenting student's and parent(s) refusal to accept remediation;

g. Evaluation plan encompassing both the educational process and the growth and achievement evidenced of students (R.S. 17:399A).

3. The remedial program shall be based on performance objectives related to educational achievement in grade appropriate skills addressed through the statewide curriculum standards for required subjects, and shall provide supplementary services to meet the educational needs of each participating student.

4. Each local school system shall adhere to the remedial

education plan as stated in its approved Pupil Progression Plan and shall provide services accordingly (R.S. 17:400 A and Board Policy).

5. Each local school system shall include within the remedial education plan a summary of how state, federal, and local funds allocated for remediation have been coordinated to ensure effective use of such funds (R.S. 399 A (5) and B (4) and Board Policy).

6. Each local school system shall maintain a systematic procedure for identifying students eligible for remedial education (R.S. 17:397).

7. Each local school system shall offer remediation accessible to all students. Refusal to accept remediation by student and parent(s) must have written documentation signed by student and parent(s).

8. A list of all students eligible for remediation shall be maintained at the central office level with individual school lists maintained at the building level (Board Policy).

9. Each local school system shall participate in the evaluation of the Remedial Education Program conducted by the Department (17:399 A (6) and Board Policy).

10. Each local school system shall complete an annual evaluation of its program, using the approved Department guidelines, and shall submit the evaluation report to the State Superintendent by June 15 of each year (R.S. 17:399 B (1) and Board Policy). The evaluation plan shall include specific means to examine and document:

- (1) student performance,
- (2) coordination with other programs, and
- (3) instruction.

The evaluation shall be conducted as described in the local evaluation plan (Board Policy).

11. Annually, prior to October 15, each school system shall report to the public the results of its efforts to provide a remedial education program and the results of the monitoring review submitted by the State Superintendent (Board Policy).

G. State Department of Education Responsibilities

1. The Department shall be responsible for reviewing plans, monitoring implementation, and evaluating the remedial education programs of the local school system (R.S. 17:400 A).

2. The State Superintendent of Education shall prepare an annual report for submission to the SBESE and the Joint Committee on Education of the Louisiana Legislature which shall contain:

- a. the number of students participating in remedial education programs; and
- b. the level of student achievement.

3. The department shall provide guidelines for local evaluation of programs, shall review the local evaluation plans, shall monitor the implementation of remedial education plans, and shall receive and approve evaluation reports (R.S. 17:400 A and Board Policy).

4. Within 60 days of receipt of the evaluation report from the local school system, the Department shall submit to each local school system an analysis of the system's evaluation report and the Department's monitoring results (Board Policy).

5. The Department shall provide technical assistance to

the city and parish school boards which shall include:

- a. assistance with development of the remedial section of the Pupil Progression Plan;
- b. assistance with staff development;
- c. assistance with the use of appropriate Department forms;
- d. assistance with program implementation; and
- e. assistance with conducting local evaluations.

Appendix A Definition of Terms

As used in this bulletin, the terms shall be defined as follows:

A. State Terms

1. *Acceleration*—Advancement of a pupil at a rate faster than usual in or from a given grade or course. This may include "gifted student" as identified according to Bulletin 1508.

2. *Alternative to Regular Placement*—Placement of students in programs not required to address the State Content Standards.

3. *Content Standards*—Statements of what we expect students to know and be able to do in various content areas.

4. *Louisiana Educational Assessment Program (LEAP)*—The state's testing program that includes the grades 3, 5, 6, 7 and 9 Louisiana Norm-referenced Testing Program; the grades 4 and 8 Criterion-referenced Testing Program including English/language arts and mathematics for grades 4 and 8, and the Graduation Exit Examination (English language arts, mathematics, science and social studies).

5. *Promotion*—A pupil's placement from a lower to a higher grade based on local and state criteria contained in these Guidelines.

6. *Pupil Progression Plan*—"The comprehensive plan developed and adopted by each parish or city school board which shall be based on student performance on the Louisiana Educational Assessment Program with goals and objectives which are compatible with the Louisiana competency-based education program and which supplement standards approved by the State Board of Elementary and Secondary Education (SBESE). A Pupil Progression Plan shall require the student's proficiency on certain test as determined by SBESE before he or she can be recommended for promotion."

7. *Regular Placement*—The assignment of students to classes, grades, or programs based on a set of criteria established in the Pupil Progression Plan. Placement includes promotion, retention, remediation, and acceleration.

8. *Remedial Programs*—Programs designed to assist students including identified exceptional and Non/Limited English Proficient (LEP) students, to overcome educational deficits identified through the Louisiana Education Assessment Program and other local criteria.

9. *Remediation*—See Remedial Programs.

10. *Retention*—Nonpromotion of a pupil from a lower to a higher grade.

11. *Specially Designed Regular Instructional Program*—A program of study designed for exceptional students and based on state grade-level performance standards with significant variations allowed in time requirements, methods of presentation, and materials used.

B. Local Terms

The definition of terms used in a local school system plan must be clearly defined for use as the basis for interpretation of the components of the plan.

Interested persons may submit written comments until 4:30 p.m., July 10, 1998 to Jeannie Stokes, 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 1566—Pupil Progression and
Remedial Education—1998**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$60. Funds are available.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections at the state or local level.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There should be no effect on costs or benefits to directly affected persons in non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There should be no impact on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9807#062

Richard W. England
Assistant to the
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1943—Teacher Assistance and Assessment (LAC 28:I.917)

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 has approved for advertisement, numerous amendments to Bulletin 1943, Policies and Procedures for Louisiana Teacher Assistance and Assessment, referenced and amended LAC 28:I.917.C. The Bulletin was revised to be in compliance with R.S. 17:3881-3884, 17:3891-3896, and 17:3901-3904, Act 838 of the Regular Session of the 1997 Louisiana Legislature. Revisions include: renaming of the program; identification of assistance and assessment periods; mentor responsibilities; procedure for selection of mentors; assessment composition; and exclusion of out-of-state teachers.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§917. Personnel Evaluation Standards and Regulations**

A. - B. ...

C. Bulletin 1943, Policies and Procedures for Louisiana Teacher Assistance and Assessment

1. The Louisiana Teacher Assistance and Assessment Program, which provides for the support and assessment of new teachers, was mandated by the Louisiana Legislature in the Third Extraordinary Session of 1994. The Policies and Procedures for Louisiana Teacher Assistance and Assessment are the guidelines by which a teacher teaching in Louisiana public schools for the first time will be assessed. The Policies and Procedures set forth the philosophy and purposes of the Louisiana Teacher Assistance and Assessment Program as well as the timelines for conducting the assessments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3881-3884, 17:3891-3896, and 17:3901-3904, Act 838 of the Regular Session of the 1997 Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 22:99 (February 1996), LR 22:277 (April 1996), amended LR 24:

Copies of the Bulletin have been mailed to all public school principals, each local school superintendent, central office personnel, assessor trainers and assessors.

Copies of the Bulletin may be seen in its entirety in the Office of Quality Educators, Third Floor, State Department of Education Building, the Office of the State Board of Elementary and Secondary Education, First Floor, State Department of Education Building, and the Office of the State Register, State Capitol Annex, Fifth floor, Baton Rouge, LA.

Interested persons may submit written comments until 4:30 p.m., September 10, 1998 to Jeannie Stokes, 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: Policies and Procedures for Louisiana
Teacher Assessment, Bulletin 1943**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated costs for FY 98-99 are for printing the *Policies and Procedures for Louisiana Teacher Assessment, Bulletin 1943*, (\$6,000.00 at the state level and none at the local level).
In addition, copies will be mailed to all public school principals and one copy will be mailed to each superintendent, to the Louisiana Teacher Assessment Program Contact Person for the central office, to all assessor trainers, and assessors. Postage costs are estimated at \$8,640.00 to mail copies of the *Policies and Procedures for Louisiana Teacher Assessment, Bulletin 1943*.

Contingent on revisions being made to Bulletin 1943, the estimate for printing and mailing the revisions in FY 1999-2000 is \$14,640.

The BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$80.00. Funds are available.

There could be an estimated cost reduction to the extent the Local Education Agencies (LEAs) do not have to form assessment teams. However, there is no way to estimate the total number of new teachers employed by an LEA annually because the number of new teachers is based on the need in an LEA.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Experienced Teachers from out of state will not be required to participate in the Louisiana Teacher Assessment Program with the appropriate previous evaluation results from their immediate previous teaching assignments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The printing of the *Policies and Procedures for Louisiana Teacher Assessment, Bulletin 1943* does not affect competition.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9807#097

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1977—Business Education (LAC 28:I.930)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement, Business Education Content Standards Curriculum Framework, Bulletin 1977. The Business Education Content Standards Curriculum Framework will be referenced in the *Louisiana Administrative Code*.

The Business Education Content Standards Curriculum Framework, Bulletin 1977, will be published and disseminated to all local education agencies and regional services centers.

A complete text of the standards may be viewed in the Office of the State Register, 1051 North Third Street, Baton Rouge; the Office of the State Board of Elementary and Secondary Education; or the Office of Student and School Performance, State Department of Education.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§930. State Content Standards**

A. - F. ...

G. Bulletin 1977-Business Education Content Standards Curriculum Framework

1. Bulletin 1977-Business Education Content Standards Curriculum Framework is adopted.

2. This bulletin contains standards and benchmarks which will be used by Local Agencies (LEAs) as a guide for developing curriculum at the local level. These standards and benchmarks define what Louisiana students should know and be able to do.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 24:

Interested persons may submit comments until 4:30 p.m., September 10, 1998 to Jeannie Stokes, 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 1977—Business Education**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated cost to implement the Business Education Content Standards by printing and disseminating them is \$6.00 × 1,500 copies or \$9,000.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated costs and/or economic benefits to directly affected persons or non-governmental groups other than improved student preparation for the workforce.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment except that students should gain improved employment readiness, which will enhance Louisiana businesses.

Marlyn Langley
Deputy Superintendent
Management and Finance
9807#090

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Employing Noncertified
Personnel (LAC 28:I.903)

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, the proposed rule which extends until July 1, 1999, the current policy which allows noncertified school personnel to be employed by local school systems when there is no certified teacher available. The revision is a change to LAC 28:I.903.I. There is no change proposed in the content of the current policy. The change extends the date only.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations §903. Teacher Certification Standards and Regulations

* * *

I. Noncertified Personnel

* * *

This interim Emergency Policy will remain in effect until July 1, 1999.

This policy does not apply to university laboratory schools.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761-3764.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education LR 24:

Interested persons may submit written comments until 4:30 p.m., September 10, 1998 to Jeannie Stokes, State 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: Employing Noncertified Personnel

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$60. Funds are available.

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)

The extension of this policy will allow noncertified school personnel to be employed by local school systems when there is no certified teacher available.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The extension of this policy allows school systems to fill vacancies which exist due to the unavailability of certified teachers.

Marlyn Langley
Deputy Superintendent
Management and Finance
9807#078

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Louisiana Components of Effective Teaching
(LAC 28:I.917)

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 the Louisiana Components of Effective Teaching. The Louisiana Components of Effective Teaching have been revised to incorporate effective teaching practices related to the Louisiana Department of Education initiatives on technology, student assessment, and school improvement. The Components are referenced as LAC 28:I.917.A and B.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations §917. Personnel Evaluation Standards and Regulations

A. Bulletin 1525

* * *

B. Teacher Assessment and Evaluation

* * *

Component A. The teacher plans effectively for instruction

Attributes:

1. Specifies learner outcomes in clear, concise objectives.

It is not necessary to specify different objectives for each child or groups of children.

2. Includes activity/activities that develop objectives.

A required number of activities is not specified because this decision must be made by the teacher.

3. Identifies and plans for individual differences.

It is not necessary to specifically describe ways individual differences are to be met in written plans. This will be discussed in the pre-conference.

4. Identified materials, other than standard classroom materials, as needed for lesson.

Standard classroom materials include such things as textbooks, chalkboard, pencils, paper, etc.

5. State method(s) of evaluation to measure learner outcomes.

Evaluation may be formal or informal.

6. Develops an individual education plan (IEP), ITP, and/or IFSP*.

The Individual Education Plan (IEP), Individual Transition Plan (ITP), and/or Individual Family Service Plan (IFSP) will meet state guidelines.

* For special education teachers only.

Domain II. Management

* * *

Domain III. Instruction

* * *

Component B. ...

Attributes:

1 - 4 ...

5. The teacher integrates technology into instruction.

* * *

Component D. The teacher demonstrates ability to assess and facilitate student academic growth.

1. Consistently monitors ongoing performance of students.

2. Uses appropriate and effective assessment techniques.

* * *

3. Provides timely feedback to students.

4. Produces evidence of student academic growth under his/her instruction.

Domain IV. Professional Development (Non-Performance)

* * *

Domain V. School Improvement

Component A. The teacher takes an active role in building-level decision making.

Attributes:

1. Participates in grade level and subject area curriculum planning and evaluation.

2. Serves on task forces and decisions making committees when appropriate.

3. Implements school improvement plan.

Component B. The teacher creates partnerships with parents/caregivers and colleagues.

Attributes:

1. Provides clear and timely information to parents/caregivers and colleagues regarding classroom expectations, student progress, and ways they can assist learning.

2. Encourages parents/caregivers to become active partners in their children's education and to become involved in school and classroom.

3. Seeks community involvement in instructional program.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3881-3884, R.S. 17:3891-3896, R.S. 17:3901-3904, and R.S. 17:3882(6)(a).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 22:99 (February 1996), amended LR 22:277 (April 1996), LR 24:

Interested persons may submit written comments until 4:30 p.m., September 10, 1998 to Jeannie Stokes, 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: Louisiana Components of Effective Teaching

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated costs for FY 98-99 are for printing the *Louisiana Components of Effective Teaching (LCET)*, (\$840.00 at the state level and none at the local level).

In addition, copies will be mailed to all public school principals and one copy will be mailed to each superintendent, to the Louisiana Teacher Assessment Program Contact Person for the central office, to all assessor trainers, and assessors. Postage costs are estimated at \$1,280.00 to mail a copy of the *Louisiana Components of Effective Teaching*.

Contingent on revisions being made to the *Louisiana Components of Effective Teaching*, the estimate for printing and mailing the revisions in FY 1999-2000 is \$2,120.00.

The BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$240.00. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs or economic benefits that directly affect persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The printing of the *Louisiana Components of Effective Teaching* does not affect competition.

Marlyn Langley
Deputy Superintendent
Management and Finance
9807#071

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students
(TOPS) (LAC 28:IV.Chapters 1-21)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the Scholarship and Grant Policy and Procedure Manual based on amended provisions of the Tuition Opportunity Program for Students (TOPS) included in Act 165 of the 1998 First Extraordinary Session of the Legislature.

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed manual until 4:30 p.m., August 20, 1998, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Tuition Opportunity Program
for Students (TOPS)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Estimated costs to implement the program for FY 98-99 are \$6,146,761; for FY 99-2000, \$7,170,359; and FY 2000-2001; \$8,210,046. This includes an estimated \$6,240 for publication in the *Louisiana Register* in FY 1998-99; salaries for 5 positions of \$191,583 in FY 1998-99, \$174,401 in FY 1999-2000, and \$181,377 in FY 2000-2001; the costs for operating expenses and equipment are expected to be \$70,120 in FY 1998-99, \$51,258 in FY 1999-2000, and \$53,759 in FY 2000-2001. Also included is \$5,885,058 in FY 1998-99, \$6,944,700 in FY 1999-2000, and \$7,974,910 in FY 2000-2001 for the additional scholarship awards.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections is anticipated to result from this action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule establishes procedures to promulgate amended provisions of the Tuition Opportunity Program for Students (TOPS) included in Act 165 of the 1998 First Extraordinary Legislative Session. As a result of Act 165 there will be 3,136 additional scholarship awards available in 1998-99.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this change.

Jack L. Guinn
Executive Director
9807#087

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of Waste Services
Hazardous Waste Division**

RCRA 7 and Land Disposal Restrictions
(LAC 33:V.1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 22, 24, 25,
29, 30, 31, 32, 35, 41, 43, 49, and 53)(HW064*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been

initiated to amend the Hazardous Waste Division regulations, LAC 33:V.Chapters 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 22, 24, 25, 29, 30, 31, 32, 35, 41, 43, 49, and 53 (Log Number HW064*).

The regulations in this package are adopted from federal regulations promulgated on or before June 1997, with the exception of Chapter 17, which corresponds with the federal register dated December 8, 1997. This proposed rule is identical to federal regulations found in 59 FR 62896-62953 (12/6/94); 60 FR 26828-26829 (5/19/95), 50426-50430 (9/29/95), 56952-56954 (11/13/95); 61 FR 4903-4916 (2/9/96), 28508-28510 (6/5/96), 34252-34278 (7/1/96), 59932-59997 (11/25/96); 62 FR 1992-1997 (1/14/97), 32452-32463 (6/13/97), 32974-32980 (6/17/97) for RCRA 7 Authorization and 51 FR 40572 (11/7/86); 52 FR 21010 (6/4/87), 25760 (7/8/87), 41295 (10/27/87); 53 FR 31138 (8/17/88); 54 FR 8264 (2/27/89), 18836 (5/2/89), 26594 (6/23/89), 36967 (9/6/89); 55 FR 22520 (6/1/90), 23935 (6/13/90); 56 FR 3864 (1/31/91), 41164 (8/19/91); 57 FR 8086 (3/6/92), 20766 (5/15/92), 28628 (6/26/92), 37194 (8/18/92), 47772 (10/20/92); 58 FR 28506 (5/14/93), 29860 (5/24/93); 59 FR 43496 (8/24/94), 47982 (9/19/94); 60 FR 242 (1/3/95), 25492 (5/11/95); 61 FR 15566, 15660 (4/8/96), 19117 (4/30/96), 33680 (6/28/96), 36419 (7/10/96), 43924 (8/26/96); 62 FR 7502 (2/19/97) for the EPA Land Disposal Restrictions (LDR), which are applicable in Louisiana. These federal regulations correspond to the consolidated checklist that is being used for the LDR Authorization (base program to Phase III). For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed rule encompasses the adoption of rules required for the EPA RCRA 7 and LDR Authorization Packages. The adoption of the federal rules will impact LAC 33:V.Chapters 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 22, 24, 25, 29, 30, 31, 32, 35, 41, 43, 49, and 53, making them equivalent to the federal regulations. The basis and rationale for this rule are to make the state regulations equivalent to the federal regulations and to obtain authorization.

The major changes, in brief, of this proposed rule address:

1. changes and updates in LDR treatment standards due to the production of carbamate pesticides and primary aluminum production;
2. the amendment of the TCLP (method 1311) and the EP toxicity test method (method 1310);
3. changes in the LDR program due to the Universal Waste rule;
4. required RCRA air standards that control organic hazardous waste treatment processes;
5. deadline extension for K088 in regards to treatment standards;
6. adoption of military munitions rules;
7. treatment standards for wood preserving operations, products of chlorinated aliphatics related to F024;
8. references Update II to the Third Edition of the SW-846; and

9. other miscellaneous changes and clarifications required for authorization.

This proposed rule meets the exceptions listed in R.S. 30:2019 (D)(3) and R.S.49:953 (G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including "solid waste" and "hazardous waste," appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

* * *

[See Prior Text in A - D.1.j]

k. nonwastewater splash condenser dross residue from the treatment of K061 in high-temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery;

l. recovered oil from petroleum refining, exploration and production, and from transportation incident thereto, which is to be inserted into the petroleum refining process (SIC Code 2911) at or before a point (other than direct insertion into a coker) where contaminants are removed. This exclusion applies to recovered oil stored or transported prior to insertion, except that the oil must not be stored in a manner involving placement on the land, and must not be accumulated speculatively, before being so recycled. Recovered oil is oil that has been reclaimed from secondary materials (such as wastewater) generated from normal petroleum refining, exploration and production, and transportation practices. Recovered oil includes oil that is recovered from refinery wastewater collection and treatment systems, oil recovered from oil and gas drilling operations, and oil recovered from wastes removed from crude oil storage tanks. Recovered oil does not include (among other things) oil-bearing hazardous wastes listed in LAC 33:V.4901 (e.g., K048-K052, F037, F038). However, oil recovered from such wastes may be considered recovered oil. Recovered oil also does not include used oil as defined in LAC 33:V.4001;

m. excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled; and

n. shredded circuit boards being recycled provided that they are:

i. stored in containers sufficient to prevent a release to the environment prior to recovery; and

ii. free of mercury switches, mercury relays, nickel-cadmium batteries, and lithium batteries.

* * *

[See Prior Text in D.2 - O.2.c.vi]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid And Hazardous Waste, Hazardous Waste Division, LR 23:564 (May 1997), LR 23:567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise:

* * *

[See Prior Text]

Active Range—a military range that is currently in service and is being regularly used for range activities.

* * *

[See Prior Text]

Chemical Agents and Munitions—defined in 50 U.S.C. section 1521(j)(1).

* * *

[See Prior Text]

Empty Container—

1.a. any hazardous waste remaining in either of the following is not subject to regulation under LAC 33:V.Chapters 1-29, 31- 39, 43, 49, or to the notification requirements of LAC 33:V.105.A:

i. an empty container; or

ii. an inner liner removed from an empty container, as defined in Paragraph 2 of this definition;

b. any hazardous waste in either of the following is subject to regulation:

i. a container that is not empty; or

ii. an inner liner removed from a container that is not empty, as defined in Paragraph 2 of this definition;

2.a. a container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified as an acutely hazardous waste listed in LAC 33:V.4901.B, C, or E, is empty if:

i.(a). all wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, e.g., pouring, pumping, and aspirating; and

(b). no more than 2.5 centimeters (one inch) of residue remain on the bottom of the container or inner liner; or
ii.(a). no more than three percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 110 gallons in size; or

(b). no more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 110 gallons in size;

b. a container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmospheric;

c. a container or an inner liner removed from a container that has held an acutely hazardous waste listed in LAC 33:V.4901.B, C or E, is empty if:

i. the container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate;

ii. the container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or

iii. in the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container has been removed.

* * *

[See Prior Text]

Excluded Scrap Metal—processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

* * *

[See Prior Text]

Explosives or Munitions Emergency—a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive materials or devices, or other potentially harmful military chemical munitions or devices, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

Explosives or Munitions Emergency Response—all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment or destruction of the explosives or munitions, and/or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are

not limited to responses at RCRA facilities.

Explosives or Munitions Emergency Response Specialist—an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include Department of Defense (DOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), DOD-certified civilian or contractor personnel, and other federal, state, or local government or civilian personnel similarly trained in explosives or munitions emergency responses.

* * *

[See Prior Text]

Home Scrap Metal—scrap metal as generated by steel mills, foundries, and refineries such as turnings, cuttings, punchings, and borings.

* * *

[See Prior Text]

Inactive Range—a military range that is not currently being used, but that is still under military control and considered by the military to be a potential range area, and that has not been put to a new use that is incompatible with range activities.

* * *

[See Prior Text]

Military—The Department of Defense (DOD), the Armed Services, Coast Guard, National Guard, Department of Energy (DOE), or other parties under contract or acting as an agent for the foregoing, who handle military munitions.

Military Munitions—all ammunition products and components produced or used by or for the DOD or the U.S. Armed Services for national defense and security, including military munitions under the control of the DOD, the U.S. Coast Guard, the DOE, and National Guard personnel. The term *military munitions* includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components thereof. However, the term does include non-nuclear components of nuclear devices managed under DOE's nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.

Military Range—designated land and water areas set aside, managed, and used to conduct research on, develop, test, and evaluate military munitions and explosives, other ordnances, or weapon systems or to train military personnel in their use and handling. Ranges include firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, and buffer zones with restricted access and exclusionary areas.

* * *

[See Prior Text]

Processed Scrap Metal—scrap metal that has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to, scrap metal which has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (i.e., sorted), and fines, drosses, and related materials which have been agglomerated.

[Note: shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled (LAC 33:V.105.D.1.n).]

Prompt Scrap Metal—scrap metal as generated by the metal working/fabrication industries and includes such scrap metal as turnings, cuttings, punchings, and borings. Prompt scrap is also known as industrial or new scrap metal.

* * *
[See Prior Text]

Solid Waste—

* * *
[See Prior Text in 1.a-b.i]

- ii. recycled as explained in Paragraph 3 of this definition;
- iii. considered inherently waste-like, as explained in Paragraph 4 of this definition; or
- iv. a military munition identified as a solid waste in LAC 33:V.5303.

* * *
[See Prior Text in 2 - 6]

TABLE 1				
	Use Constituting Disposal	Energy Recovery/ Fuel	Reclamation	Speculative Accumulation
	(1)	(2)	(3)	(4)
Spent Materials	*	*	*	*
Sludges (listed in LAC 33:V.4901)	*	*	*	*
Sludges exhibiting a characteristic of hazardous waste	*	*	*
By-products (listed in LAC 33:V.4901)	*	*	*	*
By-products exhibiting a characteristic of hazardous waste	*	*	*
Commercial chemical products (listed in LAC 33:V.4901.E and F)	*	*	
Scrap Metal other than excluded scrap metal (see excluded scrap metal)	*	*	*	*

* * *
[See Prior Text]

Unexploded Ordnance (UXO)—military munitions that have been primed, fused, armed, or otherwise prepared for action and have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installation, personnel, or material and remain unexploded either by malfunction, design, or any other cause.

* * *
[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:47 (January 1990), LR 16:218 (March 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the

Office of Solid and Hazardous Waste, Hazardous Waste Division LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24: §110. References

* * *

[See Prior Text in A - A.10]

11. *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846 [Third Edition (November 1986), as amended by Updates I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), and III (December 1996)]. 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. 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, 401 M Street, SW, Washington, DC 20460;

* * *

[See Prior Text in A.12 - 14]

15. *ASTM Standard Test Method for Vapor Pressure—Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope*, ASTM Standard D 2879-92, available from American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103.

* * *

[See Prior Text in A.16]

B. The references listed in Subsection A of this Section are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC. These materials are incorporated as they exist on the date that this rule is promulgated and a notice of any change in these materials will be published in the *Louisiana Register*.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:814 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:656 (April 1998), LR 24:

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

§305. Scope of the Permit

* * *

[See Prior Text in A - C.11]

12. the owner or operator of a facility permitted, licensed, or registered to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation by LAC 33:V.Subpart 1;

13. a person, not required to obtain an RCRA permit for treatment or containment activities taken during immediate response to any of the following situations:

- a. a discharge of a hazardous waste;
- b. an imminent and substantial threat of a discharge of hazardous waste;
- c. a discharge of a material which, when discharged, becomes a hazardous waste;
- d. an immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in LAC 33:V.109;

14. any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of LAC 33:V.Chapters 3, 5, and 7 for those activities; or

15. in the case of emergency responses involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

* * *

[See Prior Text in D - G.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 23:567 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:656 (April 1998), LR 24:1105 (June 1998), LR 24:

§321. Modification of Permits

* * *

[See Prior Text in A - C.7.b]

8. Military Hazardous Waste Munitions Treatment and Disposal. The permittee is authorized to continue to accept waste military munitions, notwithstanding any permit conditions barring the permittee from accepting off-site wastes, if:

a. the facility was in existence as a hazardous waste facility, and the facility was already permitted to handle the waste military munitions on the date when the waste military munitions became subject to hazardous waste regulatory requirements;

b. on or before the date when the waste military munitions become subject to hazardous waste regulatory requirements, the permittee submits a Class 1 modification request to remove or amend the permit provision restricting the receipt of off-site waste munitions; and

c. the permittee submits a complete Class 2 modification request within 180 days of the date when the waste military munitions became subject to hazardous waste regulatory requirements.

9. Permit Modification List. The administrative authority must maintain a list of all approved permit modifications and must publish a notice once a year in a statewide newspaper that an updated list is available for review.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

Chapter 5. Permit Application Contents

Subchapter D. Part II General Permit Information Requirements

§517. Part II Information Requirements (the Formal Permit Application)

The formal permit application information requirements presented in this Section reflect the standards promulgated in LAC 33:V.Subpart 1. These information requirements are necessary in order to determine compliance with all standards. Responses and exhibits shall be numbered sequentially according to the technical standards. The permit application must describe how the facility will comply with each of the sections of LAC 33:V.Chapters 15-37 and 41. Information required in the formal permit application shall be submitted to the administrative authority and signed in accordance with requirements in LAC 33:V.509. The description must include appropriate design information (calculations, drawings, specifications, data, etc.) and administrative details (plans, flow charts, decision trees, manpower projections, operating instructions, etc.) to permit the administrative authority to determine the adequacy of the hazardous waste permit application. Certain technical data, such as design drawings, specifications, and engineering studies, shall be certified by a registered professional engineer. If a section does not apply, the permit application must state it does not apply and why it does not apply. This information is to be submitted using the same numbering system and in the same order used in these regulations:

* * *

[See Prior Text in A - C]

D. chemical and physical analyses of the hazardous wastes and the hazardous debris to be handled at the facility. At a minimum, these analyses shall contain all the information that must be known to treat, store, or dispose of the wastes properly;

* * *

[See Prior Text in E - F]

G. a copy of the general inspection schedule required by LAC 33:V.1509.B. Include, where applicable, as part of the inspection schedule, specific requirements in LAC 33:V.1709, 1719, 1721, 1731, 1763, 1907.I, 1911, 2109, 2309, 2507, 2703.A-G, 2907, 3119.B and C, and 3205;

* * *

[See Prior Text in H - W]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 13:433 (August 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614

(July 1990), LR 16:683 (August 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), LR 24:

Subchapter E. Specific Information Requirements **§521. Specific Part II Information Requirements for Containers**

Except as otherwise provided in LAC 33:V.2101 owners or operators of facilities that store containers of hazardous waste must provide the following additional information:

* * *

[See Prior Text in A - C]

D. where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with LAC 33:V.2107.A-C, and 1517.B-D; and

E. information on air emission control equipment as required in LAC 33:V.526.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§523. Specific Part II Information Requirements for Tanks

Except as otherwise provided in LAC 33:V.1901, owners and operators of facilities that use tanks to store or treat hazardous waste must provide the following additional information:

* * *

[See Prior Text in A -H.2]

I. descriptions of controls and practices to prevent spills and overflows, as required under LAC 33:V.1909.B;

J. for tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of LAC 33:V.1917 and 1919; and

K. information on air emission control equipment as required in LAC 33:V.526.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 13:433 (August 1987) LR 16:220 (March 1990), LR 16:614 (July 1990), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§525. Specific Part II Information Requirements for Surface Impoundments

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that treat, store or dispose of hazardous waste in surface impoundments must provide the following additional information:

* * *

[See Prior Text in A -J.3]

4. the effectiveness of additional treatment, design, or monitoring techniques; and

K. information on air emission control equipment as required in LAC 33:V.526.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 16:220 (March 1990), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998), LR 24:

§526. Specific Part II Information Requirements for Air Emission Controls for Tanks, Surface Impoundments, and Containers

A. Except as otherwise provided in LAC 33:V.1501, owners and operators of tanks, surface impoundments, or containers that use air emission controls in accordance with the requirements of LAC 33:V.Chapter 17. Subchapter C shall provide the following additional information:

1. documentation for each floating roof cover installed on a tank subject to LAC 33:V.1755.D.1 or 2 that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design and certification by the owner or operator that the cover meets the applicable design specifications as listed in LAC 33:V.1755.E.1 or F.1;

2. identification of each container area subject to the requirements of LAC 33:V.Chapter 17. Subchapter C and certification by the owner or operator that the requirements of this Chapter are met;

3. documentation for each enclosure used to control air pollutant emissions from tanks or containers in accordance with the requirements of LAC 33:V.1755.D.5 or 1759.E.1.b that includes records for the most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* under 40 CFR 52.741, appendix B;

4. documentation for each floating membrane cover installed on a surface impoundment in accordance with the requirements of LAC 33:V.1757.C that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the specifications listed in LAC 33:V.1757.C.1;

5. documentation for each closed-vent system and control device installed in accordance with the requirements of LAC 33:V.1761 that includes design and performance information as specified in LAC 33:V.530.C and D;

6. an emission monitoring plan for both Method 21 in 40 CFR part 60, appendix A and control device monitoring methods. This plan shall include the following information: monitoring point(s), monitoring methods for control devices, monitoring frequency, procedures for documenting exceedances, and procedures for mitigating noncompliances; and

7. when an owner or operator of a facility subject to LAC 33:V.Chapter 43. Subchapter V cannot comply with LAC 33:V.Chapter 17. Subchapter C by the date of permit issuance, the schedule of implementation required under LAC 33:V.1751.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

Chapter 9. Manifest System for TSD Facilities

§901. Applicability

The regulations in this Chapter apply to owners and operators of both on-site and off-site TSD facilities, except as LAC 33:V.1501 provides otherwise. LAC 33:V.905, 907, and 909 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources. LAC 33:V.907.B only applies to permittees who treat, store, or dispose of hazardous wastes on-site where such wastes were generated and to owners and operators of off-site facilities with respect to waste military munitions exempted from manifest requirements under LAC 33:V.5307.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

Chapter 11. Generators

§1101. Applicability

* * *

[See Prior Text in A - G]

H. Persons responding to an explosives or munitions emergency in accordance with LAC 33:V.1501.C.7.a.iv or d or 4307 and 305.C.12 or 13 are not required to comply with the standards of this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:398 (May 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 22:20 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:660 (April 1998), LR 24:1106 (June 1998), LR 24:

§1103. Hazardous Waste Determination

A person who generates a solid waste, as defined in LAC 33:V.109, must determine if that waste is a hazard.

* * *

[See Prior Text in A - B.2]

C. If the waste is determined to be hazardous, the generator must refer to other parts of LAC 33:V.Subpart 1 for possible exclusions or prohibitions pertaining to management of his or her specific wastes.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 17:658 (July 1991), LR 22:818 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§1107. The Manifest System

* * *

[See Prior Text in A - A.10]

11. The requirements of this Chapter and LAC 33:V.33.1109.C do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding LAC 33:V.1301.A, the generator or transporter must comply with the requirements for transporters set forth in LAC 33:V.1315 and 1317 in the event of a discharge of hazardous waste on a public or private right-of-way.

* * *

[See Prior Text in B - D.6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:267 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§1109. Pre-Transport Requirements

* * *

[See Prior Text in A - E.1]

- a. the waste is placed:
 - i. in containers and the generator complies with LAC 33:V.Chapter 43.Subchapter H; and/or
 - ii. in tanks and the generator complies with LAC 33:V.Chapter 43.Subchapter I, except LAC 33:V.4442 and 4445 ; and/or
 - iii. on drip pads and the generator complies with LAC 33:V.Chapter 43.Subchapter S and maintains the following records at the facility:
 - (a). a description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and
 - (b). documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal; and/or
 - iv. in containment buildings and the generator complies with LAC 33:V.Chapter 43.Subchapter T by having placed his professional engineer certification that the building complies with the design standards specified in LAC 33:V.4703 in the facility's operating record no later than 60 days after the date of initial operation of the unit. After February 18, 1993, PE certification will be required prior to operation of the unit. The owner or operator shall maintain the following records at the facility:
 - (a). a written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the facility showing that they are consistent with respecting the 90-day limit, and documentation that the procedures are complied with; or

(b). documentation that the unit is emptied at least once every 90 days; b. such a generator is exempt from all requirements in LAC 33:V.Chapter 43. Subchapters F and G, except for LAC 33:V.4379 and 4385;

c. the date upon which each period of accumulation begins is clearly marked on each container and visible for inspection on each container;

d. while being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste"; and

e. the generator complies with the requirements for owners or operators in LAC 33:V.2245.D, 4319 and in Chapter 43.Subchapters B and C.

2. A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the permitting requirements as specified in LAC 33:V.Subpart 1 unless he has been granted an extension to the 90-day period. Such an extension may be granted by the administrative authority if hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary, or uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the administrative authority on a case-by-case basis.

3. Generators who accumulate hazardous waste for less than 90 days are subject to the requirements of LAC 33:V.1115, 1117, 1119, and 2245 of these regulations.

* * *

[See Prior Text in E.4]

5. A generator who accumulates either hazardous waste or acutely hazardous waste listed in LAC 33:V.4901.E in excess of the amounts listed in Subsection E.4.a of this Section at or near any point of generation must, with respect to that amount of excess waste, comply within three days with Subsection E.1 of this Section or other applicable provisions of this Chapter.

* * *

[See Prior Text in E.6 - 7.d.iv.(c).(v)]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

Chapter 13. Transporters

§1301. Applicability

* * *

[See Prior Text in A - F]

G. The regulations in this Chapter do not apply to transportation during an explosives or munitions emergency response conducted in accordance with LAC 33:V.1501.C.7.a.iv or d or 4307 and 305.C.12 or 13.

H. LAC 33:V.5305 identifies how the requirements of this Chapter apply to military munitions classified as solid waste under LAC 33:V.5303.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:666 (April 1998), LR 24:

§1305. Transfer Facility Requirements

* * *

[See Prior Text in A - B]

C. A transporter storing manifested shipments of hazardous waste in containers meeting the requirements applicable to the LDPS regulations on packaging under LAC 33:V.Subpart 2.Chapter 101 at a transfer facility for a period of 10 days or less is not subject to regulation under LAC 33:V.Chapters 1-7, 15-29, 31-38, and 43 with respect to the storage of those wastes, except as required to obtain approval by the administrative authority.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), repromulgated LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1511 (November 1997), LR 24:

Chapter 15. Treatment, Storage, and Disposal Facilities

§1501. Applicability

* * *

[See Prior Text in A - C.6]

7.a. except as provided in Subsection C.7.b of this Section, a person engaged in treatment or containment activities during immediate response to any of the following situations:

- i. a discharge of a hazardous waste;
 - ii. an imminent and substantial threat of a discharge of hazardous waste;
 - iii. a discharge of a material that, when discharged, becomes a hazardous waste; or
 - iv. an immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in LAC 33:V.109;
- b. an owner or operator of a facility otherwise regulated by this Chapter must comply with all applicable requirements of LAC 33:V.1511 and 1513;
 - c. any person who is covered by Subsection C.7.a of this Section and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Chapter and 40 CFR 122-124 for those activities; and
 - d. in the case of an explosives or munitions emergency response, if a federal, state, tribal, or local official acting within the scope of his or her official responsibilities or an explosives or munitions emergency response specialist determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material

or waste by transporters who do not have EPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition;

* * *

[See Prior Text in C.8 - 9]

10. a generator accumulating waste on-site in compliance with LAC 33:V.1109.E;

11. universal waste handlers and universal waste transporters (as defined in LAC 33:V.3813) handling the wastes listed below. These handlers are subject to regulation under LAC 33:V.Chapter 38, when handling the below listed universal wastes:

- a. batteries as described in LAC 33:V.3803;
- b. pesticides as described in LAC 33:V.3805; and
- c. thermostats as described in LAC 33:V.3807; or

12. LAC 33:V.5309 identifies when the requirements of this Chapter apply to the storage of military munitions classified as solid waste under LAC 33:V.5303. The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in LAC 33:V.Subpart 1.

* * *

[See Prior Text in D - G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 23:565 (May 1997), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998), LR 24:

§1509. General Inspection Requirements

* * *

[See Prior Text in A - B.3]

4. The frequency of inspection may vary for the items on the schedule. However, inspections should be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration or malfunction or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the terms and frequencies called for in LAC 33:V.1709, 1719, 1721, 1731, 1763, 1907, 1911, 2109, 2309, 2507, 2711, 2907, 3119, and 3205, where applicable.

[Comment: LAC 33:V.517.G requires the inspection schedule to be submitted with Part II of the permit application. The department will evaluate the schedule along with the rest of the application to ensure that it adequately protects human health and the environment. As part of this review, the department may modify or amend the schedule as may be necessary.]

* * *

[See Prior Text in C - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR

17:658 (July 1991), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR:24:

§1519. General Waste Analysis

* * *

[See Prior Text in A - A.2]

[Comment: For example, the facility's records of analyses performed on the waste before the effective date of these regulations, or studies conducted on hazardous waste generated from processes similar to that which generated the waste to be managed at the facility, may be included in the data base required to comply with Subsection A.1 of this Section. The owner or operator of an off-site facility may arrange for the generator of the hazardous waste to supply part of the information required by Subsection A.1 of this Section, except as otherwise specified in LAC 33:V.2247.A and A.1. If the generator does not supply the information and the owner or operator chooses to accept a hazardous waste, the owner or operator is responsible for obtaining the information required to comply with this Section.]

* * *

[See Prior Text in A.3 - B.6]

7. where applicable, the methods which will be used to meet the additional waste analysis requirements for specific waste management methods as specified in LAC 33:V.1517, 1711.D, 1741.D, 1753, 2515, 3107, and 2245;

* * *

[See Prior Text in B.8 - 8.c]

i. do not meet applicable treatment standards of LAC 33:V.Chapter 22.Subchapters A and B, or

* * *

[See Prior Text in B.8.c.ii - ii.(a)]

(b). such residues are prohibited from land disposal under LAC 33:V.2215; and

9. for owners and operators seeking an exemption to the air emission standards of LAC 33:V.Chapter 17. Subchapter C in accordance with LAC 33:V.1751:

a. if direct measurement is used for the waste determination, the procedures and schedules for waste sampling and analysis, and the results of the analysis of test data to verify the exemption; or

b. if knowledge of the waste is used for the waste determination, any information prepared by the facility owner or operator or by the generator of the hazardous waste, if the waste is received from off-site, that is used as the basis for knowledge of the waste.

* * *

[See Prior Text in C - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:1334 (December 1995), LR 22:818 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§1529. Operating Record and Reporting Requirements

* * *

[See Prior Text in A - B.5]

6. Records and results of waste analyses and waste determinations performed as specified in these regulations and in LAC 33:V.1517, 1519, 1711, 1741, 1753, 2237.A, 2245, 2515, and 3107.

* * *

[See Prior Text in B.7 - 8]

9. Monitoring, testing, or analytical data where required by LAC 33:V.1504, 1711.C-F, 1713, 1741.D and I, 1743, 1763, 1765, 1903, 1907, 1911, 2304, 2306, 2309, 2504, 2507, 2508, 2509, 2709, 2711, 2719, 2904, 2906, 2907, 3119, 3203, 3205, and Chapter 33, as well as corrective action cites.

* * *

[See Prior Text in B.10 - E.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

Chapter 17. Air Emission Standards

§1703. Definitions

As used in this Chapter, all terms not defined herein shall have the meanings given them in LAC 33:V.109.

* * *

[See Prior Text]

Average Volatile Organic Concentration or Average VO Concentration—the mass-weighted average volatile organic concentration of a hazardous waste as determined in accordance with the requirements of LAC 33:V.4727.

* * *

[See Prior Text]

Closure Device—a cap, hatch, lid, plug, seal, valve, or other type of fitting that blocks an opening in a cover such that when the device is secured in the closed position it prevents or reduces air pollutant emissions to the atmosphere. Closure devices include devices that are detachable from the cover (e.g., a sampling port cap), manually operated (e.g., a hinged access lid or hatch), or automatically operated (e.g., a spring-loaded pressure relief valve).

* * *

[See Prior Text]

Continuous Seal—a seal that forms a continuous closure that completely covers the space between the edge of the floating roof and the wall of a tank. A continuous seal may be a vapor-mounted seal, liquid-mounted seal, or metallic shoe seal. A continuous seal may be constructed of fastened segments so as to form a continuous seal.

* * *

[See Prior Text]

Cover—a device that provides a continuous barrier over the hazardous waste managed in a unit to prevent or reduce air pollutant emissions to the atmosphere. A cover may have openings (such as access hatches, sampling ports, gauge wells) that are necessary for operation, inspection, maintenance, and repair of the unit on which the cover is used. A cover may be a separate piece of equipment which can be detached and removed from the unit or a cover may be formed by structural features permanently integrated into the design of the unit.

* * *

[See Prior Text]

Enclosure—a structure that surrounds a tank or container, captures organic vapors emitted from the tank or container, and vents the captured vapors through a closed-vent system to a control device.

* * *

[See Prior Text]

External Floating Roof—a pontoon-type or double-deck type cover that rests on the surface of the material managed in a tank with no fixed roof.

* * *

[See Prior Text]

Fixed Roof—a cover that is mounted on a unit in a stationary position and does not move with fluctuations in the level of the material managed in the unit.

* * *

[See Prior Text]

Floating Membrane Cover—a cover consisting of a synthetic flexible membrane material that rests upon and is supported by the hazardous waste being managed in a surface impoundment.

Floating Roof—a cover consisting of a double deck, pontoon single deck, or internal floating cover which rests upon and is supported by the material being contained, and is equipped with a continuous seal.

* * *

[See Prior Text]

Hard-Piping—pipe or tubing that is manufactured and properly installed in accordance with relevant standards and good engineering practices.

* * *

[See Prior Text]

In Light Material Service—the container is used to manage a material for which both of the following conditions apply: the vapor pressure of one or more of the organic constituents in the material is greater than 0.3 kilopascals (kPa) at 20°C; and the total concentration of the pure organic constituents having a vapor pressure greater than 0.3 kPa at 20°C is equal to or greater than 20 percent by weight.

* * *

[See Prior Text]

Internal Floating Roof—a cover that rests or floats on the material surface (but not necessarily in complete contact with it) inside a tank that has a fixed roof.

* * *

[See Prior Text]

Liquid-Mounted Seal—a foam or liquid-filled primary seal mounted in contact with the hazardous waste between the tank wall and the floating roof continuously around the circumference of the tank.

Malfunction—any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

Maximum Organic Vapor Pressure—the sum of the individual organic constituent partial pressures exerted by the material contained in a tank at the maximum vapor pressure-causing conditions (e.g., temperature, agitation, pH effects of combining wastes, etc.) reasonably expected to occur in the tank. For the purpose of this Chapter, maximum organic

vapor pressure is determined using the procedures specified in LAC 33:V.4727.

Metallic Shoe Seal—a continuous seal that is constructed of metal sheets which are held vertically against the wall of the tank by springs, weighted levers, or other mechanisms and is connected to the floating roof by braces or other means. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof.

No Detectable Organic Emissions—no escape of organics to the atmosphere as determined using the procedure specified in LAC 33:V.4727.

* * *

[See Prior Text]

Point of Waste Origination—as follows:

a. when the facility owner or operator is the generator of the hazardous waste, the point of waste origination means the point where a solid waste produced by a system, process, or waste management unit is determined to be a hazardous waste as defined in LAC 33:V.109; or

[Note: In this case, this term is being used in a manner similar to the use of the term "point of generation" in air standards established for waste management operations under authority of the Clean Air Act in 40 CFR parts 60, 61, and 63].

b. when the facility owner and operator are not the generator of the hazardous waste, point of waste origination means the point where the owner or operator accepts delivery or takes possession of the hazardous waste.

Point of Waste Treatment—the point where a hazardous waste to be treated in accordance with LAC 33:V.4725 exits the treatment process. Any waste determination shall be made before the waste is conveyed, handled, or otherwise managed in a manner that allows the waste to volatilize to the atmosphere.

* * *

[See Prior Text]

Safety Device—a closure device, such as a pressure relief valve, frangible disc, fusible plug, or any other type of device, which functions exclusively to prevent physical damage or permanent deformation to a unit or its air emission control equipment by venting gases or vapors directly to the atmosphere during unsafe conditions resulting from an unplanned, accidental, or emergency event. For the purpose of this Chapter, a safety device is not used for routine venting of gases or vapors from the vapor headspace underneath a cover such as during filling of the unit or to adjust the pressure in this vapor headspace in response to normal daily diurnal ambient temperature fluctuations. A safety device is designed to remain in a closed position during normal operations and open only when the internal pressure, or another relevant parameter, exceeds the device threshold setting applicable to the air emission control equipment as determined by the owner or operator based on manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials.

* * *

[See Prior Text]

Single-Seal System—a floating roof having one continuous seal. This seal may be vapor-mounted, liquid-mounted, or a metallic shoe seal.

* * *

[See Prior Text]

Vapor-Mounted Seal—a continuous seal that is mounted such that there is a vapor space between the hazardous waste in the unit and the bottom of the seal.

* * *

[See Prior Text]

Volatile Organic Concentration or VO Concentration—the fraction by weight of the volatile organic compounds contained in a hazardous waste expressed in terms of parts per million (ppmw) as determined by direct measurement or by knowledge of the waste in accordance with the requirements of LAC 33:V.4727. For the purpose of determining the VO concentration of a hazardous waste, organic compounds with a Henry's law constant value of at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³) at 25°C must be included. Appendix Table 1 of this Chapter presents a list of compounds known to have a Henry's law constant value less than the cutoff level.

Waste Determination—performing all applicable procedures in accordance with the requirements of LAC 33:V.4727 to determine whether a hazardous waste meets standards specified in this Chapter. Examples of a waste determination include performing the procedures in accordance with the requirements of LAC 33:V.4727 to determine the average VO concentration of a hazardous waste at the point of waste origination; the average VO concentration of a hazardous waste at the point of waste treatment and comparing the results to the exit concentration limit specified for the process used to treat the hazardous waste; the organic reduction efficiency and the organic biodegradation efficiency for a biological process used to treat a hazardous waste and comparing the results to the applicable standards; or the maximum volatile organic vapor pressure for a hazardous waste in a tank and comparing the results to the applicable standards.

Waste Stabilization Process—any physical or chemical process used to either reduce the mobility of hazardous constituents in a hazardous waste or eliminate free liquids as determined by Test Method 9095 (Paint Filter Liquids Test) in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication Number SW-846, Third Edition, September 1986, as amended by Update I, November 15, 1992 (incorporated by reference—refer to LAC 33:V.110). A waste stabilization process includes mixing the hazardous waste with binders or other materials and curing the resulting hazardous waste and binder mixture. Other synonymous terms used to refer to this process are "waste fixation" or "waste solidification." This does not include the adding of absorbent materials to the surface of a waste, without mixing, agitation, or subsequent curing, to absorb free liquid.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

Subchapter A. Process Vents

§1705. Applicability

The regulations in this Subchapter apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes (except as provided in LAC 33:V.1501).

A. Except for LAC 33:V.1711.D and E, this Subchapter applies to process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations that manage hazardous wastes with organic concentrations of at least 10 parts per million by weight (ppmw), if these operations are conducted in one of the following:

1. a unit that is subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 31, and 43;

2. a unit (including a hazardous waste recycling unit) that is not exempt from the permitting requirements under LAC 33:V.1109.E (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located on a hazardous waste management facility otherwise subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 31, and 43; or

3. a unit that is exempt from permitting under the provisions of LAC 33:V.1109.E (i.e., a 90-day tank or container).

* * *

[See Prior Text B]

[Note: The requirements of LAC 33:V.1707-1715 apply to process vents on hazardous waste recycling units previously exempt under LAC 33:V.4115.A. Other exemptions under LAC 33:V.105.D and 1501.C are not affected by these requirements.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 18:723 (July 1992), LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§1709. Standards: Closed-Vent Systems and Control Devices

* * *

[See Prior Text in A - A.1]

2. The owner or operator of an existing facility who cannot install a closed-vent system and control device to comply with the provisions of this Subchapter on the effective date that the facility becomes subject to the provisions of this Subchapter must prepare an implementation schedule that includes dates by which the closed-vent system and control device will be installed and in operation. The controls must be installed as soon as possible, but the implementation schedule may allow up to 30 months after the effective date that the facility becomes subject to this Subchapter for installation and start-up. All units that begin operation after December 21, 1990, must comply with the rules immediately (i.e., must have control devices installed and operating on start-up of the affected unit); the two-year implementation schedule does not apply to these units.

* * *

[See Prior Text in B - F.2.f.i]

ii. a temperature-monitoring device equipped with a continuous recorder. The device shall be capable of monitoring temperature with an accuracy of ± 1 percent of the

temperature being monitored in °C or $\pm 0.5^{\circ}\text{C}$, whichever is greater. The temperature sensor shall be installed at a location in the exhaust vent stream from the condenser exit (i.e., product side).

* * *

[See Prior Text in F.2.g - J]

K. A closed-vent system shall meet either of the following design requirements:

1. a closed-vent system shall be designed to operate with no detectable emissions, as indicated by an instrument reading of less than 500 ppmv above background as determined by the procedure in LAC 33:V.1711.B and by visual inspections; or

2. a closed-vent system shall be designed to operate at a pressure below atmospheric pressure. The system shall be equipped with at least one pressure gauge or other pressure measurement device that can be read from a readily accessible location to verify that negative pressure is being maintained in the closed-vent system when the control device is operating.

L. The owner or operator shall monitor and inspect each closed-vent system required to comply with this Section to ensure proper operation and maintenance of the closed-vent system by implementing the following requirements:

1. each closed-vent system that is used to comply with Subsection K.1 of this Section shall be inspected and monitored in accordance with the following requirements:

a. an initial leak detection monitoring of the closed-vent system shall be conducted by the owner or operator on or before the date that the system becomes subject to this Section. The owner or operator shall monitor the closed-vent system components and connections using the procedures specified in LAC 33:V.1711.B to demonstrate that the closed-vent system operates with no detectable emissions, as indicated by an instrument reading of less than 500 ppmv above background;

b. after initial leak detection monitoring required in Subsection L.1.a of this Section, the owner or operator shall inspect and monitor the closed-vent system as follows:

i. closed-vent system joints, seams, or other connections that are permanently or semi-permanently sealed (e.g., a welded joint between two sections of hard piping or a bolted and gasketed ducting flange) shall be visually inspected at least once per year to check for defects that could result in air pollutant emissions. The owner or operator shall monitor a component or connection using the procedures specified in LAC 33:V.1711.B to demonstrate that it operates with no detectable emissions following any time the component is repaired or replaced (e.g., a section of damaged hard piping is replaced with new hard piping) or the connection is unsealed (e.g., a flange is unbolted);

ii. closed-vent system components or connections other than those specified in Subsection L.1.b.i of this Section shall be monitored annually and at other times as requested by the administrative authority, except as provided for in Subsection O of this Section, using the procedures specified in LAC 33:V.1711.B to demonstrate that the components or connections operate with no detectable emissions;

c. in the event that a defect or leak is detected, the owner or operator shall repair the defect or leak in accordance with the requirements of Subsection L.3 of this Section;

d. the owner or operator shall maintain a record of the inspection and monitoring in accordance with the requirements specified in LAC 33:V.1713;

2. each closed-vent system that is used to comply with Subsection K.2 of this Section shall be inspected and monitored in accordance with the following requirements:

a. the closed-vent system shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in ductwork or piping or loose connections;

b. the owner or operator shall perform an initial inspection of the closed-vent system on or before the date that the system becomes subject to this Section. Thereafter, the owner or operator shall perform the inspections at least once every year;

c. in the event that a defect or leak is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection L.3 of this Section; and

d. the owner or operator shall maintain a record of the inspection and monitoring in accordance with the requirements specified in LAC 33:V.1713;

3. the owner or operator shall repair all detected defects as follows:

a. detectable emissions, as indicated by visual inspection or by an instrument reading greater than 500 ppmv above background, shall be controlled as soon as practicable, but not later than 15 calendar days after the emission is detected, except as provided for in Subsection L.3.c of this Section;

b. a first attempt at repair shall be made no later than five calendar days after the emission is detected;

c. delay of repair of a closed-vent system for which leaks have been detected is allowed if the repair is technically infeasible without a process unit shutdown or if the owner or operator determines that emissions resulting from immediate repair would be greater than the fugitive emissions likely to result from delay of repair. Repair of such equipment shall be completed by the end of the next process unit shutdown; and

d. the owner or operator shall maintain a record of the defect repair in accordance with the requirements specified in LAC 33:V.1713.

M. Closed-vent systems and control devices used to comply with provisions of this Chapter shall be operated at all times when emissions may be vented to them.

N. The owner or operator using a carbon adsorption system to control air pollutant emissions shall document that all carbon that is a hazardous waste and that is removed from the control device is managed in one of the following manners, regardless of the average volatile organic concentration of the carbon:

1. regenerated or reactivated in a thermal treatment unit that meets one of the following:

a. the owner or operator of the unit has been issued a final permit under LAC 33:V.Chapter 5 which implements the requirements of LAC 33:V.Chapter 32;

b. the unit is equipped with and operating air emission controls in accordance with the applicable requirements of Subchapters A and C of this Chapter or of LAC 33:V.Chapter 43; or

c. the unit is equipped with and operating air emission controls in accordance with a national emission standard for hazardous air pollutants under 40 CFR part 61 or part 63;

2. incinerated in a hazardous waste incinerator for which the owner or operator either:

a. has been issued a final permit under LAC 33:V.Chapter 5 that implements the requirements of LAC 33:V.Chapter 31; or

b. has designed and operates the incinerator in accordance with the interim status requirements of LAC 33:V.Chapter 43.Subchapter N;

3. burned in a boiler or industrial furnace for which the owner or operator either:

a. has been issued a final permit under LAC 33:V.Chapter 5 that implements the requirements of LAC 33:V.Chapter 30; or

b. has designed and operates the boiler or industrial furnace in accordance with the interim status requirements of LAC 33:V.Chapter 30.

O. Any components of a closed-vent system that are designated, as described in LAC 33:V.1713.C.9, as unsafe to monitor are exempt from the requirements of Subsection L.1.b.ii of this Section if:

1. the owner or operator of the closed-vent system determines that the components of the closed-vent system are unsafe to monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with Subsection L.1.b.ii of this Section; and

2. the owner or operator of the closed-vent system adheres to a written plan that requires monitoring the closed-vent system components using the procedure specified in Subsection L.1.b.ii of this Section as frequently as practicable during safe-to-monitor times.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§1711. Test Methods and Procedures

* * *

[See Prior Text in A]

B. When a closed-vent system is tested for compliance with no detectable emissions, as required in LAC 33:V.1709.L, the test shall comply with the following requirements.

* * *

[See Prior Text in B.1 - D.1.b]

c. Each sample shall be analyzed, and the total organic concentration of the sample shall be computed using Method 9060 or 8260 of *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

* * *

[See Prior Text in D.1.d - E.3]

F. When an owner or operator and the administrative authority do not agree on whether a distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operation manages a hazardous waste with organic concentrations of at least 10 ppmw based on knowledge of the waste, the procedures in Method 8260 *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference at LAC 33:V.110 may be used to resolve the dispute.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), LR 22:818 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§1713. Recordkeeping Requirements

* * *

[See Prior Text in A - C.7]

8. date of each control device start-up and shutdown;

9. an owner or operator designating any components of a closed-vent system as unsafe to monitor pursuant to LAC 33:V.1709.O shall record in a log that is kept in the facility operating record, the identification of closed-vent system components that are designated as unsafe to monitor in accordance with the requirements of LAC 33:V.1709.O, an explanation for each closed-vent system component stating why the closed-vent system component is unsafe to monitor, and the plan for monitoring each closed-vent system component;

10. when each leak is detected as specified in LAC 33:V.1709.L, the following information shall be recorded:

a. the instrument identification number, the closed-vent system component identification number, and the operator name, initials, or identification number;

b. the date the leak was detected and the date of first attempt to repair the leak;

c. the date of successful repair of the leak; and

d. maximum instrument reading measured by Method 21 of 40 CFR part 60, appendix A after it is successfully repaired or determined to be nonrepairable;

e. "repair delayed" and the reason for the delay if a leak is not repaired within 15 calendar days after discovery of the leak.

i. The owner or operator may develop a written procedure that identifies the conditions that justify a delay of repair. In such cases, reasons for delay of repair may be documented by citing the relevant sections of the written procedure.

ii. If delay of repair was caused by depletion of stocked parts, there must be documentation that the spare parts were sufficiently stocked on-site before depletion and the reason for depletion.

D. Record Retention. Records of the monitoring, operating, and inspection information required by LAC 33:V.1713.C.3-10 must be kept on site for three years.

* * *

[See Prior Text in E - F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 22:818 (September 1996), amended by the Office Of Waste Services, Hazardous Waste Division, LR 24:

Subchapter B. Equipment Leaks

§1717. Applicability

* * *

[See Prior Text in A]

B. Except as provided in LAC 33:V.1743.K, this Subchapter applies to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in one of the following:

1. a unit that is subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 31, and 43; or
2. a unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of LAC 33:V.1109.E.1 (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 31, and 43; or
3. a unit that is exempt from permitting under the provisions of LAC 33:V.1109.E.1 (i.e., a 90-day tank or container).

* * *

[See Prior Text in C - E]

F. Equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for less than 300 hours per calendar year is excluded from the requirements of LAC 33:V.1719 - 1735 if it is identified, as required in LAC 33:V.1743.

[Note: The requirements of LAC 33:V.1719-1745 apply to equipment associated with hazardous waste recycling units previously exempt under LAC 33:V.4115.A. Other exemptions under LAC 33:V.105.D and 1501.C are not affected by these requirements.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§1725. Standards: Sampling Connection Systems

A. Each sampling connection system shall be equipped with a closed purge, closed loop, or closed-vent system. This system shall collect the sample purge for return to the process or for routing to the appropriate treatment system. Gases displaced during filling of the sample container are not required to be collected or captured.

B. Each closed-purge, closed loop, or closed-vent system, as required in Subsection A of this Section, shall meet one of the following requirements:

1. return the purged process fluid directly to the process line;
2. collect and recycle the purged process fluid; or
3. be designed and operated to capture and transport all the purged process fluid to a waste management unit that complies with the applicable requirements of LAC 33:V.1755-1759 or a control device that complies with the requirements of LAC 33:V.1735.

C. In situ sampling systems and sampling systems without purges are exempt from the requirements of Subsections A and B of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§1731. Standards: Pumps and Valves in Heavy Liquid Service, Pressure Relief Devices in Light Liquid or Heavy Liquid Service, and Flanges and Other Connectors

* * *

[See Prior Text in A - D]

E. Any connector that is inaccessible or is ceramic or ceramic-lined (e.g., porcelain, glass, or glass-lined) is exempt from the monitoring requirements of Subsection A of this Section and from the recordkeeping requirements of LAC 33:V.1743.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§1741. Test Methods and Procedures

* * *

[See Prior Text in A - D.1]

2. method 9060 or 8260 of *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference at LAC 33:V.110; or

* * *

[See Prior Text in D.3 - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), LR 22:819 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§1743. Recordkeeping Requirements

* * *

[See Prior Text in A - G.5]

6. Identification: Either by list or location (area or group) of equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for a period of less than 300 hours per year.

* * *

[See Prior Text in H - M]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 18:723 (July 1992), Office of Waste Services, Hazardous Waste Division, LR 24:

Subchapter C. Air Emission Standards for Tanks, Surface Impoundments, and Containers

§1747. Applicability

A. The requirements of this Subchapter apply to owners and operators of all facilities that treat, store, or dispose of

hazardous waste in tanks, surface impoundments, or containers subject to either Chapter 19, 21, or 29, except as LAC 33:V.1501 and Subsection B of this Section provide otherwise.

B. The requirements of this Subchapter do not apply to the following waste management units at the facility:

1. a waste management unit that holds hazardous waste placed in the unit before October 6, 1996, and in which no hazardous waste is added to the unit on or after this date;

2. a container that has a design capacity less than or equal to 0.1 m³;

3. a tank in which an owner or operator has stopped adding hazardous waste and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan;

4. a surface impoundment in which an owner or operator has stopped adding hazardous waste (except to implement an approved closure plan) and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan;

5. a waste management unit that is used solely for on-site treatment or storage of hazardous waste that is generated as the result of implementing remedial activities required under the corrective action authorities of RCRA sections 3004(u), 3004(v), or 3008(h), CERCLA authorities, or similar state authorities;

6. a waste management unit that is used solely for the management of radioactive mixed waste in accordance with all applicable regulations under the authority of the Atomic Energy Act and the Nuclear Waste Policy Act;

7. a hazardous waste management unit that the owner or operator certifies is equipped with and operating air emission controls in accordance with the requirements of an applicable Clean Air Act regulation codified under 40 CFR part 60, part 61, or part 63. For the purpose of complying with this Paragraph, a tank for which the air emission control includes an enclosure, as opposed to a cover, must be in compliance with the enclosure and control device requirements of LAC 33:V.1755.I, except as provided in LAC 33:V.1751.C.5; and

8. a tank that has a process vent as defined in LAC 33:V.1703.

C. For the owner and operator of a facility subject to this Chapter and who received a final permit under RCRA section 3005 prior to October 6, 1996, the requirements of this Chapter shall be incorporated into the permit when the permit is reissued in accordance with the requirements of LAC 33:V.705 or reviewed in accordance with the requirements of LAC 33:V.315.D. Until such date when the owner and operator receives a final permit incorporating the requirements of this Chapter, the owner and operator are subject to the requirements of LAC 33:V.Chapter 43.Subchapter V.

D. The requirements of this Subchapter, except for the recordkeeping requirements specified in LAC 33:V.1765.I, are administratively stayed for a tank or a container used for the management of hazardous waste generated by organic peroxide manufacturing and its associated laboratory operations when the owner or operator of the unit meets all of the following conditions:

1. the owner or operator identifies that the tank or container receives hazardous waste generated by an organic peroxide manufacturing process producing more than one functional family of organic peroxides or multiple organic peroxides within one functional family, that one or more of these organic peroxides could potentially undergo self-accelerating thermal decomposition at or below ambient temperatures, and that organic peroxides are the predominant products manufactured by the process. For the purpose of meeting the conditions of this paragraph, "organic peroxide" means an organic compound that contains the bivalent —O—O— structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical;

2. the owner or operator prepares documentation, in accordance with the requirements of LAC 33:V.1765.I, explaining why an undue safety hazard would be created if air emission controls specified in LAC 33:V.1755-1761 are installed and operated on the tanks and containers used at the facility to manage the hazardous waste generated by the organic peroxide manufacturing process or processes meeting the conditions of Subsection D.1 of this Section; and

3. the owner or operator notifies the administrative authority, in writing, that hazardous waste generated by an organic peroxide manufacturing process or processes meeting the conditions of Subsection D.1 of this Section are managed at the facility in tanks or containers meeting the conditions of Subsection D.2 of this Section. The notification shall state the name and address of the facility and be signed and dated by an authorized representative of the facility owner or operator.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24.

§1749. Definitions

As used in this Chapter, all terms shall have the meaning given to them in LAC 33:V.1703 and 109.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§1751. Standards: General

A. This Section applies to the management of hazardous waste in tanks, surface impoundments, and containers subject to this Subchapter.

B. The owner or operator shall control air pollutant emissions from each waste management unit in accordance with standards specified in LAC 33:V.1755-1761, as applicable to the waste management unit, except as provided for in Subsection C of this Section.

C. A tank, surface impoundment, or container is exempt from standards specified in LAC 33:V.1755-1761, as applicable, provided that the waste management unit is one of the following:

1. a tank, surface impoundment, or container for which all hazardous waste entering the unit has an average VO concentration at the point of waste origination of less than 500

parts per million by weight (ppmw). The average VO concentration shall be determined using the procedures specified in LAC 33:V.1753.A. The owner or operator shall review and update, as necessary, this determination at least once every 12 months following the date of the initial determination for the hazardous waste streams entering the unit;

2. a tank, surface impoundment, or container for which the organic content of all the hazardous waste entering the waste management unit has been reduced by an organic destruction or removal process that achieves any one of the following conditions:

a. a process that removes or destroys the organics contained in the hazardous waste to a level such that the average VO concentration of the hazardous waste at the point of waste treatment is less than the exit concentration limit (C_e) established for the process. The average VO concentration of the hazardous waste at the point of waste treatment and the exit concentration limit for the process shall be determined using the procedures specified in LAC 33:V.1753.B;

b. a process that removes or destroys the organics contained in the hazardous waste to a level such that the organic reduction efficiency (R) for the process is equal to or greater than 95 percent, and the average VO concentration of the hazardous waste at the point of waste treatment is less than 100 ppmw. The organic reduction efficiency for the process and the average VO concentration of the hazardous waste at the point of waste treatment shall be determined using the procedures specified in LAC 33:V.1753.B;

c. a process that removes or destroys the organics contained in the hazardous waste to a level such that the actual organic mass removal rate (MR) for the process is equal to or greater than the required organic mass removal rate (RMR) established for the process. The required organic mass removal rate and the actual organic mass removal rate for the process shall be determined using the procedures specified in LAC 33:V.1753.B;

d. a biological process that destroys or degrades the organics contained in the hazardous waste, such that either of the following conditions is met:

i. the organic reduction efficiency (R) for the process is equal to or greater than 95 percent and the organic biodegradation efficiency (R_{bio}) for the process is equal to or greater than 95 percent. The organic reduction efficiency and the organic biodegradation efficiency for the process shall be determined using the procedures specified in LAC 33:V.1753.B; or

ii. the total actual organic mass biodegradation rate (MR_{bio}) for all hazardous waste treated by the process is equal to or greater than the required organic mass removal rate (RMR). The required organic mass removal rate and the actual organic mass biodegradation rate for the process shall be determined using the procedures specified in LAC 33:V.1753.B;

e. a process that removes or destroys the organics contained in the hazardous waste and meets all of the following conditions:

i. from the point of waste origination through the point where the hazardous waste enters the treatment process,

the hazardous waste is managed continuously in waste management units that use air emission controls in accordance with the standards specified in LAC 33:V.1755-1761, as applicable to the waste management unit;

ii. from the point of waste origination through the point where the hazardous waste enters the treatment process, any transfer of the hazardous waste is accomplished through continuous hard-piping or other closed system transfer that does not allow exposure of the waste to the atmosphere. The EPA considers a drain system that meets the requirements of 40 CFR part 63, subpart RR—National Emission Standards for Individual Drain Systems to be a closed system; and

iii. the average VO concentration of the hazardous waste at the point of waste treatment is less than the lowest average VO concentration at the point of waste origination determined for each of the individual waste streams entering the process or 500 ppmw, whichever value is lower. The average VO concentration of each individual waste stream at the point of waste origination shall be determined using the procedures specified in LAC 33:V.1753.A. The average VO concentration of the hazardous waste at the point of waste treatment shall be determined using the procedures specified in LAC 33:V.1753.B;

f. a process that removes or destroys the organics contained in the hazardous waste to a level such that the organic reduction efficiency (R) for the process is equal to or greater than 95 percent and the owner or operator certifies that the average VO concentration at the point of waste origination for each of the individual waste streams entering the process is less than 10,000 ppmw. The organic reduction efficiency for the process and the average VO concentration of the hazardous waste at the point of waste origination shall be determined using the procedures specified in LAC 33:V.1753.A and B, respectively;

g. a hazardous waste incinerator for which the owner or operator has either:

i. been issued a final permit under LAC 33:V.Chapter 5 that implements the requirements of LAC 33:V.Chapter 31; or

ii. designed and operates the incinerator in accordance with the interim status requirements of LAC 33:V.Chapter 43.Subchapter N;

h. a boiler or industrial furnace for which the owner or operator has either:

i. been issued a final permit under LAC 33:V.Chapter 5 that implements the requirements of LAC 33:V.Chapter 30; or

ii. designed and operates the boiler or industrial furnace in accordance with the interim status requirements of LAC 33:V.Chapter 30;

i. for the purpose of determining the performance of an organic destruction or removal process in accordance with the conditions in each of Subsection C.2.a-f of this Section, the owner or operator shall account for VO concentrations determined to be below the limit of detection of the analytical method by using the following VO concentration:

i. if Method 25D in 40 CFR part 60, appendix A is used for the analysis, one-half the blank value determined in the method; or

ii. if any other analytical method is used, one-half the limit of detection established for the method;

3. a tank used for biological treatment of hazardous waste in accordance with the requirements of Subsection C.2.d of this Section;

4. a tank, surface impoundment, or container for which all hazardous waste placed in the unit either:

a. meets the numerical concentration limits for organic hazardous constituents applicable to the hazardous waste, as specified in LAC 33:V.Chapter 22.Table 2 "Treatment Standards for Hazardous Waste"; or

b. has been treated by the treatment technology established by EPA for the waste in LAC 33:V.2227.A or treated by an equivalent method of treatment approved by the department in accordance with LAC 33:V.2227.B; or

5. a tank used for bulk feed of hazardous waste to a waste incinerator and all of the following conditions are met:

a. the tank is located inside an enclosure vented to a control device that is designed and operated in accordance with all applicable requirements specified under 40 CFR part 61, subpart FF—National Emission Standards for Benzene Waste Operations for a facility at which the total annual benzene quantity from the facility waste is equal to or greater than 10 megagrams per year;

b. the enclosure and control device serving the tank were installed and began operation prior to November 25, 1996; and

c. the enclosure is designed and operated in accordance with the criteria for a permanent total enclosure as specified in *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* under 40 CFR 52.741, appendix B. The enclosure may have permanent or temporary openings to allow worker access; passage of material into or out of the enclosure by conveyor, vehicles, or other mechanical or electrical equipment; or to direct air flow into the enclosure. The owner or operator shall perform the verification procedure for the enclosure as specified in section 5.0 to *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* annually.

D. The administrative authority may at any time perform or request that the owner or operator perform a waste determination for a hazardous waste managed in a tank, surface impoundment, or container exempted from using air emission controls under the provisions of this Section as follows:

1. the waste determination for average VO concentration of a hazardous waste at the point of waste origination shall be performed using direct measurement in accordance with the applicable requirements of LAC 33:V.1753.A. The waste determination for a hazardous waste at the point of waste treatment shall be performed in accordance with the applicable requirements of LAC 33:V.1753.B;

2. in performing a waste determination in accordance with Subsection D.1 of this Section, the sample preparation and analysis shall be conducted as follows:

a. in accordance with the method used by the owner

or operator to perform the waste analysis, except in the case specified in Subsection D.2.b of this Section; and

b. if the administrative authority determines that the method used by the owner or operator was not appropriate for the hazardous waste managed in the tank, surface impoundment, or container, then the administrative authority may choose an appropriate method;

3. in a case when the owner or operator is requested to perform the waste determination, the administrative authority may elect to have an authorized representative observe the collection of the hazardous waste samples used for the analysis;

4. in a case when the results of the waste determination performed or requested by the administrative authority do not agree with the results of a waste determination performed by the owner or operator using knowledge of the waste, then the results of the waste determination performed in accordance with the requirements of Subsection D.1 of this Section shall be used to establish compliance with the requirements of this Subchapter;

5. in a case when the owner or operator has used an averaging period greater than one hour for determining the average VO concentration of a hazardous waste at the point of waste origination, the administrative authority may elect to establish compliance with this Subchapter by performing or requesting that the owner or operator perform a waste determination using direct measurement based on waste samples collected within a one-hour period as follows:

a. the average VO concentration of the hazardous waste at the point of waste origination shall be determined by direct measurement in accordance with the requirements of LAC 33:V.1753.A;

b. results of the waste determination performed or requested by the administrative authority showing that the average VO concentration of the hazardous waste at the point of waste origination is equal to or greater than 500 ppmw shall constitute noncompliance with this Subchapter, except in a case as provided for in Subsection D.5.c of this Section; and

c. for the case when the average VO concentration of the hazardous waste at the point of waste origination previously has been determined by the owner or operator using an averaging period greater than one hour to be less than 500 ppmw, but because of normal operating process variations the VO concentration of the hazardous waste determined by direct measurement for any given one-hour period may be equal to or greater than 500 ppmw, information that was used by the owner or operator to determine the average VO concentration of the hazardous waste (e.g., test results, measurements, calculations, and other documentation) and recorded in the facility records in accordance with the requirements of LAC 33:V.1753.A and 1765 shall be considered by the administrative authority together with the results of the waste determination performed or requested by the administrative authority in establishing compliance with this Subchapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§1753. Waste Determination Procedures

A. Waste Determination Procedure to Determine Average Volatile Organic (VO) Concentration of a Hazardous Waste at the Point of Waste Origination

1. An owner or operator shall determine the average VO concentration at the point of waste origination for each hazardous waste placed in a waste management unit exempted under the provisions of LAC 33:V.1751.C.1 from using air emission controls in accordance with standards specified in LAC 33:V.4727, as applicable to the waste management unit.

2. The average VO concentration of a hazardous waste at the point of waste origination may be determined in accordance with the procedures specified in LAC 33:V.4727.

B. Waste Determination Procedures for Treated Hazardous Waste

1. An owner or operator shall perform the applicable waste determination for each treated hazardous waste placed in a waste management unit exempted under the provisions of LAC 33:V.1751.C.2 from using air emission controls in accordance with standards specified in LAC 33:V.1755-1761, as applicable to the waste management unit.

2. The waste determination for a treated hazardous waste shall be performed in accordance with the procedures specified in LAC 33:V.4727, as applicable to the treated hazardous waste.

C. Procedure to Determine the Maximum Organic Vapor Pressure of a Hazardous Waste in a Tank

1. An owner or operator shall determine the maximum organic vapor pressure for each hazardous waste placed in a tank using Tank Level 1 controls in accordance with standards specified in LAC 33:V.1755.C.

2. The maximum organic vapor pressure of the hazardous waste may be determined in accordance with the procedures specified in LAC 33:V.4727.

D. The procedure for determining no detectable organic emissions for the purpose of complying with this Subchapter shall be conducted in accordance with the procedures specified in LAC 33:V.4727.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§1755. Standards: Tanks

A. The provisions of this Section apply to the control of air pollutant emissions from tanks for which LAC 33:V.1751.B references the use of this Section for such air emission control.

B. The owner or operator shall control air pollutant emissions from each tank subject to this Section in accordance with the following requirements, as applicable:

1. for a tank that manages hazardous waste that meets all of the conditions specified in Subsection B.1.a-c of this Section, the owner or operator shall control air pollutant emissions from the tank in accordance with the Tank Level 1 controls specified in Subsection C of this Section or the Tank Level 2 controls specified in Subsection D of this Section:

a. the hazardous waste in the tank has a maximum organic vapor pressure that is less than the maximum organic vapor pressure limit for the tank's design capacity category as follows:

i. for a tank design capacity equal to or greater than 151 m³, the maximum organic vapor pressure limit for the tank is 5.2 kPa;

ii. for a tank design capacity equal to or greater than 75 m³, but less than 151 m³, the maximum organic vapor pressure limit for the tank is 27.6 kPa;

iii. for a tank design capacity less than 75 m³, the maximum organic vapor pressure limit for the tank is 76.6 kPa;

b. the hazardous waste in the tank is not heated by the owner or operator to a temperature that is greater than the temperature at which the maximum organic vapor pressure of the hazardous waste is determined for the purpose of complying with Subsection B.1.a of this Section; and

c. the hazardous waste in the tank is not treated by the owner or operator using a waste stabilization process, as defined in LAC 33:V.4721; and

2. for a tank that manages hazardous waste that does not meet all of the conditions specified in Subsection B.1.a-c of this Section, the owner or operator shall control air pollutant emissions from the tank by using Tank Level 2 controls in accordance with the requirements of Subsection D of this Section. Examples of tanks required to use Tank Level 2 controls include a tank used for a waste stabilization process and a tank for which the hazardous waste in the tank has a maximum organic vapor pressure that is equal to or greater than the maximum organic vapor pressure limit for the tank's design capacity category as specified in Subsection B.1.a of this Section.

C. Owners and operators controlling air pollutant emissions from a tank using Tank Level 1 controls shall meet the requirements specified in Subsection C.1-4 of this Section:

1. the owner or operator shall determine the maximum organic vapor pressure for a hazardous waste to be managed in the tank using Tank Level 1 controls before the first time the hazardous waste is placed in the tank. The maximum organic vapor pressure shall be determined using the procedures specified in LAC 33:V.1753.C. Thereafter, the owner or operator shall perform a new determination whenever changes to the hazardous waste managed in the tank could potentially cause the maximum organic vapor pressure to increase to a level that is equal to or greater than the maximum organic vapor pressure limit for the tank design capacity category specified in Subsection B.1.a of this Section, as applicable to the tank;

2. the tank shall be equipped with a fixed roof designed to meet the following specifications:

a. the fixed roof and its closure devices shall be designed to form a continuous barrier over the entire surface area of the hazardous waste in the tank. The fixed roof may be a separate cover installed on the tank (e.g., a removable cover mounted on an open-top tank) or may be an integral part of the tank structural design (e.g., a horizontal cylindrical tank equipped with a hatch);

b. the fixed roof shall be installed in a manner such

that there are no visible cracks, holes, gaps, or other open spaces between roof section joints or between the interface of the roof edge and the tank wall;

c. each opening in the fixed roof shall be either:

i. equipped with a closure device designed to operate such that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the opening and the closure device; or

ii. connected by a closed-vent system that is vented to a control device. The control device shall remove or destroy organics in the vent stream, and it shall be operating whenever hazardous waste is managed in the tank;

d. the fixed roof and its closure devices shall be made of suitable materials that will minimize exposure of the hazardous waste to the atmosphere, to the extent practical, and will maintain the integrity of the fixed roof and closure devices throughout their intended service life. Factors to be considered when selecting the materials for and designing the fixed roof and closure devices shall include organic vapor permeability; the effects of any contact with the hazardous waste or its vapors managed in the tank; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the tank on which the fixed roof is installed;

3. whenever a hazardous waste is in the tank, the fixed roof shall be installed with each closure device secured in the closed position except as follows:

a. opening of closure devices or removal of the fixed roof is allowed at the following times:

i. to provide access to the tank for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a port to sample the liquid in the tank or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable, to the tank;

ii. to remove accumulated sludge or other residues from the bottom of the tank;

b. opening of a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the tank internal pressure in accordance with the tank design specifications. The device shall be designed to operate with no detectable organic emissions when the device is secured in the closed position. The settings at which the device opens shall be established such that the device remains in the closed position whenever the tank internal pressure is within the internal pressure operating range determined by the owner or operator based on the tank manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the tank internal pressure exceeds the internal pressure operating range for the tank as a result of loading operations or

diurnal ambient temperature fluctuations;

c. opening of a safety device, as defined in LAC 33:V.4721, is allowed at any time conditions require doing so to avoid an unsafe condition;

4. the owner or operator shall inspect the air emission control equipment in accordance with the following requirements:

a. the fixed roof and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in the roof sections or between the roof and the tank wall; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices;

b. the owner or operator shall perform an initial inspection of the fixed roof and its closure devices on or before the date that the tank becomes subject to this Section. Thereafter, the owner or operator shall perform the inspections at least once every year, except under the special conditions provided for in Subsection L of this Section;

c. in the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection K of this Section; and

d. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.B.

D. Owners and operators controlling air pollutant emissions from a tank using Tank Level 2 controls shall use one of the following tanks:

1. a fixed-roof tank equipped with an internal floating roof in accordance with the requirements specified in Subsection E of this Section;

2. a tank equipped with an external floating roof in accordance with the requirements specified in Subsection F of this Section;

3. a tank vented through a closed-vent system to a control device in accordance with the requirements specified in Subsection G of this Section;

4. a pressure tank designed and operated in accordance with the requirements specified in Subsection H of this Section; or

5. a tank located inside an enclosure that is vented through a closed-vent system to an enclosed combustion control device in accordance with the requirements specified in Subsection I of this Section.

E. The owner or operator who controls air pollutant emissions from a tank using a fixed roof with an internal floating roof shall meet the requirements specified in Subsection E.1-3 of this Section.

1. the tank shall be equipped with a fixed roof and an internal floating roof in accordance with the following requirements:

a. the internal floating roof shall be designed to float on the liquid surface except when the floating roof must be supported by the leg supports;

b. the internal floating roof shall be equipped with a continuous seal between the wall of the tank and the floating roof edge that meets either of the following requirements:

i. a single continuous seal that is either a liquid-mounted seal or a metallic shoe seal, as defined in LAC 33:V.4721; or

ii. two continuous seals mounted one above the other. The lower seal may be a vapor-mounted seal;

c. the internal floating roof shall meet the following specifications:

i. each opening in a noncontact internal floating roof, except for automatic bleeder vents (vacuum breaker vents) and the rim space vents, is to provide a projection below the liquid surface;

ii. each opening in the internal floating roof shall be equipped with a gasketed cover or a gasketed lid except for leg sleeves, automatic bleeder vents, rim space vents, column wells, ladder wells, sample wells, and stub drains;

iii. each penetration of the internal floating roof for the purpose of sampling shall have a slit fabric cover that covers at least 90 percent of the opening;

iv. each automatic bleeder vent and rim space vent shall be gasketed;

v. each penetration of the internal floating roof that allows for passage of a ladder shall have a gasketed sliding cover; and

vi. each penetration of the internal floating roof that allows for passage of a column supporting the fixed roof shall have a flexible fabric sleeve seal or a gasketed sliding cover;

2. the owner or operator shall operate the tank in accordance with the following requirements:

a. when the floating roof is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be completed as soon as practical;

b. automatic bleeder vents are to be set closed at all times when the roof is floating, except when the roof is being floated off or is being landed on the leg supports; and

c. prior to filling the tank, each cover, access hatch, gauge float well, or lid on any opening in the internal floating roof shall be bolted or fastened closed (i.e., no visible gaps). Rim space vents are to be set to open only when the internal floating roof is not floating or when the pressure beneath the rim exceeds the manufacturer's recommended setting;

3. the owner or operator shall inspect the internal floating roof in accordance with the procedures specified as follows:

a. the floating roof and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, the internal floating roof is not floating on the surface of the liquid inside the tank; liquid has accumulated on top of the internal floating roof; any portion of the roof seals have detached from the roof rim; holes, tears, or other openings are visible in the seal fabric; the gaskets no longer close off the hazardous waste surface from the atmosphere; or the slotted membrane has more than 10 percent open area;

b. the owner or operator shall inspect the internal floating roof components as follows, except as provided in Subsection E.3.c of this Section:

i. visually inspect the internal floating roof components through openings on the fixed-roof (e.g.,

manholes and roof hatches) at least once every 12 months after initial fill; and

ii. visually inspect the internal floating roof, primary seal, secondary seal (if one is in service), gaskets, slotted membranes, and sleeve seals (if any) each time the tank is emptied and degassed and at least every 10 years;

c. as an alternative to performing the inspections specified in Subsection E.3.b of this Section for an internal floating roof equipped with two continuous seals mounted one above the other, the owner or operator may visually inspect the internal floating roof, primary and secondary seals, gaskets, slotted membranes, and sleeve seals (if any) each time the tank is emptied and degassed and at least every 5 years;

d. prior to each inspection required by Subsection E.3.b or c of this Section, the owner or operator shall notify the administrative authority in advance of each inspection to provide the administrative authority with the opportunity to have an observer present during the inspection. The owner or operator shall notify the administrative authority of the date and location of the inspection as follows:

i. prior to each visual inspection of an internal floating roof in a tank that has been emptied and degassed, written notification shall be prepared and sent by the owner or operator so that it is received by the administrative authority at least 30 calendar days before refilling the tank except when an inspection is not planned as provided for in Subsection E.3.d.ii of this Section;

ii. when a visual inspection is not planned and the owner or operator could not have known about the inspection 30 calendar days before refilling the tank, the owner or operator shall notify the administrative authority as soon as possible, but no later than seven calendar days before refilling of the tank. This notification may be made by telephone and immediately followed by a written explanation for why the inspection is unplanned. Alternatively, written notification, including the explanation for the unplanned inspection, may be sent so that it is received by the administrative authority at least seven calendar days before refilling the tank;

e. in the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection K of this Section; and

f. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.B.

F. The owner or operator who controls air pollutant emissions from a tank using an external floating roof shall meet the requirements specified in Subsection F.1-3 of this Section.

1. the owner or operator shall design the external floating roof in accordance with the following requirements:

a. the external floating roof shall be designed to float on the liquid surface except when the floating roof must be supported by the leg supports;

b. the floating roof shall be equipped with two continuous seals, one above the other, between the wall of the tank and the roof edge. The lower seal is referred to as the primary seal, and the upper seal is referred to as the secondary seal;

i. the primary seal shall be a liquid-mounted seal or a metallic shoe seal, as defined in LAC 33:V.4721. The total area of the gaps between the tank wall and the primary seal shall not exceed 212 square centimeters (cm²) per meter of tank diameter, and the width of any portion of these gaps shall not exceed 3.8 centimeters (cm). If a metallic shoe seal is used for the primary seal, the metallic shoe seal shall be designed so that one end extends into the liquid in the tank and the other end extends a vertical distance of at least 61 centimeters above the liquid surface; and

ii. the secondary seal shall be mounted above the primary seal and cover the annular space between the floating roof and the wall of the tank. The total area of the gaps between the tank wall and the secondary seal shall not exceed 21.2 square centimeters (cm²) per meter of tank diameter, and the width of any portion of these gaps shall not exceed 1.3 centimeters (cm); and

c. the external floating roof shall meet the following specifications:

i. except for automatic bleeder vents (vacuum breaker vents) and rim space vents, each opening in a noncontact external floating roof shall provide a projection below the liquid surface;

ii. except for automatic bleeder vents, rim space vents, roof drains, and leg sleeves, each opening in the roof shall be equipped with a gasketed cover, seal, or lid;

iii. each access hatch and each gauge float well shall be equipped with a cover designed to be bolted or fastened when the cover is secured in the closed position;

iv. each automatic bleeder vent and each rim space vent shall be equipped with a gasket;

v. each roof drain that empties into the liquid managed in the tank shall be equipped with a slotted membrane fabric cover that covers at least 90 percent of the area of the opening;

vi. each unslotted and slotted guide pole well shall be equipped with a gasketed sliding cover or a flexible fabric sleeve seal;

vii. each unslotted guide pole shall be equipped with a gasketed cap on the end of the pole;

viii. each slotted guide pole shall be equipped with a gasketed float or other device which closes off the liquid surface from the atmosphere; and

ix. each gauge hatch and each sample well shall be equipped with a gasketed cover;

2. the owner or operator shall operate the tank in accordance with the following requirements:

a. when the floating roof is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be completed as soon as practical;

b. except for automatic bleeder vents, rim space vents, roof drains, and leg sleeves, each opening in the roof shall be secured and maintained in a closed position at all times except when the closure device must be open for access;

c. covers on each access hatch and each gauge float well shall be bolted or fastened when secured in the closed position;

d. automatic bleeder vents shall be set closed at all times when the roof is floating, except when the roof is being floated off or is being landed on the leg supports;

e. rim space vents shall be set to open only at those times that the roof is being floated off the roof leg supports or when the pressure beneath the rim seal exceeds the manufacturer's recommended setting;

f. the cap on the end of each unslotted guide pole shall be secured in the closed position at all times except when measuring the level or collecting samples of the liquid in the tank;

g. the cover on each gauge hatch or sample well shall be secured in the closed position at all times except when the hatch or well must be opened for access; and

h. both the primary seal and the secondary seal shall completely cover the annular space between the external floating roof and the wall of the tank in a continuous fashion except during inspections;

3. the owner or operator shall inspect the external floating roof in accordance with the procedures specified as follows:

a. the owner or operator shall measure the external floating roof seal gaps in accordance with the following requirements:

i. the owner or operator shall perform measurements of gaps between the tank wall and the primary seal within 60 calendar days after initial operation of the tank following installation of the floating roof and, thereafter, at least once every five years;

ii. the owner or operator shall perform measurements of gaps between the tank wall and the secondary seal within 60 calendar days after initial operation of the tank following installation of the floating roof and, thereafter, at least once every year;

iii. if a tank ceases to hold hazardous waste for a period of one year or more, subsequent introduction of hazardous waste into the tank shall be considered an initial operation for the purposes of Subsection F.3.a.i and ii of this Section;

iv. the owner or operator shall determine the total surface area of gaps in the primary seal and in the secondary seal individually using the following procedure:

(a). the seal gap measurements shall be performed at one or more floating roof levels when the roof is floating off the roof supports;

(b). seal gaps, if any, shall be measured around the entire perimeter of the floating roof in each place where a 0.32-centimeter (cm) diameter uniform probe passes freely (without forcing or binding against the seal) between the seal and the wall of the tank and measure the circumferential distance of each such location;

(c). for a seal gap measured under Subsection F.3 of this Section, the gap surface area shall be determined by using probes of various widths to measure accurately the actual distance from the tank wall to the seal and multiplying each such width by its respective circumferential distance;

(d). the total gap area shall be calculated by adding the gap surface areas determined for each identified gap location for the primary seal and the secondary seal individually and then dividing the sum for each seal type by the nominal perimeter of the tank. These total gap areas for the primary seal and secondary seal are then compared to the respective standards for the seal type as specified in Subsection F.1.b of this Section;

v. in the event that the seal gap measurements do not conform to the specifications in Subsection F.1.b of this Section, the owner or operator shall repair the defect in accordance with the requirements of Subsection K of this Section; and

vi. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.B;

b. the owner or operator shall visually inspect the external floating roof in accordance with the following requirements:

i. the floating roof and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, holes, tears, or other openings in the rim seal or seal fabric of the floating roof; a rim seal detached from the floating roof; all or a portion of the floating roof deck being submerged below the surface of the liquid in the tank; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices;

ii. the owner or operator shall perform an initial inspection of the external floating roof and its closure devices on or before the date that the tank becomes subject to this Section. Thereafter, the owner or operator shall perform the inspections at least once every year except for the special conditions provided for in Subsection L of this Section;

iii. in the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection K of this Section; and

iv. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.B;

c. prior to each inspection required by Subsection F.3.a or F.3.b of this Section, the owner or operator shall notify the administrative authority in advance of each inspection to provide the administrative authority with the opportunity to have an observer present during the inspection. The owner or operator shall notify the administrative authority of the date and location of the inspection as follows:

i. prior to each inspection to measure external floating roof seal gaps as required under Subsection F.3.a of this Section, written notification shall be prepared and sent by the owner or operator so that it is received by the administrative authority at least 30 calendar days before the date the measurements are scheduled to be performed;

ii. prior to each visual inspection of an external floating roof in a tank that has been emptied and degassed, written notification shall be prepared and sent by the owner or operator so that it is received by the administrative authority at least 30 calendar days before refilling the tank, except when an

inspection is not planned as provided for in Subsection F.3.c.iii of this Section; and

iii. when a visual inspection is not planned and the owner or operator could not have known about the inspection 30 calendar days before refilling the tank, the owner or operator shall notify the administrative authority as soon as possible, but no later than seven calendar days before refilling of the tank. This notification may be made by telephone and immediately followed by a written explanation stating why the inspection is unplanned. Alternatively, written notification, including the explanation for the unplanned inspection, may be sent so that it is received by the administrative authority at least seven calendar days before refilling the tank.

G. The owner or operator who controls air pollutant emissions from a tank by venting the tank to a control device shall meet the requirements specified in Subsection G.1-3 of this Section:

1. the tank shall be covered by a fixed roof and vented directly through a closed-vent system to a control device in accordance with the following requirements:

a. the fixed roof and its closure devices shall be designed to form a continuous barrier over the entire surface area of the liquid in the tank;

b. each opening in the fixed roof not vented to the control device shall be equipped with a closure device. If the pressure in the vapor headspace underneath the fixed roof is less than atmospheric pressure when the control device is operating, the closure devices shall be designed to operate such that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the cover opening and the closure device. If the pressure in the vapor headspace underneath the fixed roof is equal to or greater than atmospheric pressure when the control device is operating, the closure device shall be designed to operate with no detectable organic emissions;

c. the fixed roof and its closure devices shall be made of suitable materials that will minimize exposure of the hazardous waste to the atmosphere, to the extent practical, and will maintain the integrity of the fixed roof and closure devices throughout their intended service life. Factors to be considered when selecting the materials for and designing the fixed roof and closure devices shall include organic vapor permeability; the effects of any contact with the liquid and its vapor managed in the tank; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the tank on which the fixed roof is installed; and

d. the closed-vent system and control device shall be designed and operated in accordance with the requirements of LAC 33:V.1761;

2. whenever a hazardous waste is in the tank, the fixed roof shall be installed with each closure device secured in the closed position and the vapor headspace underneath the fixed roof vented to the control device except as follows:

a. venting to the control device is not required, and opening of closure devices or removal of the fixed roof is allowed at the following times:

i. to provide access to the tank for performing routine inspection, maintenance, or other activities needed for

normal operations. Examples of such activities include those times when a worker needs to open a port to sample liquid in the tank or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity, the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable, to the tank; and

ii. to remove accumulated sludge or other residues from the bottom of a tank;

b. opening of a safety device, as defined in LAC 33:V.4721, is allowed at any time conditions require doing so to avoid an unsafe condition;

3. the owner or operator shall inspect and monitor the air emission control equipment in accordance with the following procedures:

a. the fixed roof and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in the roof sections or between the roof and the tank wall; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices;

b. the closed-vent system and control device shall be inspected and monitored by the owner or operator in accordance with the procedures specified in LAC 33:V.1761;

c. the owner or operator shall perform an initial inspection of the air emission control equipment on or before the date that the tank becomes subject to this Section. Thereafter, the owner or operator shall perform the inspections at least once every year, except for the special conditions provided for in Subsection L of this Section;

d. in the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection K of this Section; and

e. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.B;

H. The owner or operator who controls air pollutant emissions by using a pressure tank shall meet the following requirements:

1. the tank shall be designed not to vent to the atmosphere as a result of compression of the vapor headspace in the tank during filling of the tank to its design capacity;

2. all tank openings shall be equipped with closure devices designed to operate with no detectable organic emissions as determined using the procedure specified in LAC 33:V.1753.D; and

3. whenever a hazardous waste is in the tank, the tank shall be operated as a closed system that does not vent to the atmosphere except in the event that a safety device, as defined in LAC 33:V.1749, is required to open to avoid an unsafe condition.

I. The owner or operator who controls air pollutant emissions by using an enclosure vented through a closed-vent system to an enclosed combustion control device shall meet the requirements specified in Subsection I.1-4 of this Section:

1. the tank shall be located inside an enclosure. The enclosure shall be designed and operated in accordance with

the criteria for a permanent total enclosure as specified in *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* under 40 CFR 52.741, Appendix B. The enclosure may have permanent or temporary openings to allow worker access; passage of material into or out of the enclosure by conveyor, vehicles, or other mechanical means; entry of permanent mechanical or electrical equipment; or direct airflow into the enclosure. The owner or operator shall perform the verification procedure for the enclosure as specified in section 5.0 to *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* initially when the enclosure is first installed and, thereafter, annually;

2. the enclosure shall be vented through a closed-vent system to an enclosed combustion control device that is designed and operated in accordance with the standards for either a vapor incinerator, boiler, or process heater specified in LAC 33:V.1761;

3. safety devices, as defined in LAC 33:V.4721, may be installed and operated as necessary on any enclosure, closed-vent system, or control device used to comply with the requirements of Subsection I.1 and 2 of this Section; and

4. the owner or operator shall inspect and monitor the closed-vent system and control device as specified in LAC 33:V.1761.

J. The owner or operator shall transfer hazardous waste to a tank subject to this Section in accordance with the following requirements:

1. transfer of hazardous waste, except as provided in Subsection J.2 of this Section, to the tank from another tank subject to this Section or from a surface impoundment subject to LAC 33:V.1757 shall be conducted using continuous hard-piping or another closed system that does not allow exposure of the hazardous waste to the atmosphere. For the purpose of complying with this provision, an individual drain system is considered to be a closed system when it meets the requirements of 40 CFR part 63, subpart RR—National Emission Standards for Individual Drain Systems; and

2. the requirements of Subsection J.1 of this Section do not apply when transferring a hazardous waste to the tank under any of the following conditions:

a. the hazardous waste meets the average VO concentration conditions specified in LAC 33:V.1751.C.1 at the point of waste origination;

b. the hazardous waste has been treated by an organic destruction or removal process to meet the requirements in LAC 33:V.1751.C.2.

K. The owner or operator shall repair each defect detected during an inspection performed in accordance with the requirements of Subsection C.4, E.3, F.3, or G.3 of this Section as follows:

1. the owner or operator shall make first efforts at repair of the defect no later than five calendar days after detection, and repair shall be completed as soon as possible, but no later than 45 calendar days after detection, except as provided in Subsection K.2 of this Section; and

2. repair of a defect may be delayed beyond 45 calendar days if the owner or operator determines that repair of the defect requires emptying or temporary removal from service of

the tank and no alternative tank capacity is available at the site to accept the hazardous waste normally managed in the tank. In this case, the owner or operator shall repair the defect the next time the process or unit that is generating the hazardous waste managed in the tank stops operation. Repair of the defect shall be completed before the process or unit resumes operation.

L. Following the initial inspection and monitoring of the cover as required by the applicable provisions of this Subchapter, subsequent inspection and monitoring may be performed at intervals longer than one year under the following special conditions:

1. in the case when inspecting or monitoring the cover would expose a worker to dangerous, hazardous, or other unsafe conditions, then the owner or operator may designate a cover as an "unsafe to inspect and monitor cover" and comply with all of the following requirements:

a. prepare a written explanation for the cover stating the reasons why the cover is unsafe to visually inspect or to monitor, if required; and

b. develop and implement a written plan and schedule to inspect and monitor the cover, using the procedures specified in the applicable section of this Subchapter, as frequently as practicable during those times when a worker can safely access the cover; and

2. in the case when a tank is buried partially or entirely underground, an owner or operator is required to inspect and monitor, as required by the applicable provisions of this Section, only those portions of the tank cover and those connections to the tank (e.g., fill ports, access hatches, gauge wells, etc.) that are located on or above the ground surface.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§1757. Standards: Surface Impoundments

A. The provisions of this Section apply to the control of air pollutant emissions from surface impoundments for which LAC 33:V.1751.B references the use of this Section for such air emission control.

B. The owner or operator shall control air pollutant emissions from the surface impoundment by installing and operating either of the following:

1. a floating membrane cover in accordance with the provisions specified in Subsection C of this Section; or

2. a cover that is vented through a closed-vent system to a control device in accordance with the provisions specified in Subsection D of this Section.

C. The owner or operator who controls air pollutant emissions from a surface impoundment using a floating membrane cover shall meet the requirements specified in Subsection C.1-3 of this Section.

1. the surface impoundment shall be equipped with a floating membrane cover designed to meet the following specifications:

a. the floating membrane cover shall be designed to float on the liquid surface during normal operations and form a continuous barrier over the entire surface area of the liquid;

b. the cover shall be fabricated from a synthetic membrane material that is either:

i. high density polyethylene (HDPE) with a thickness no less than 2.5 millimeters (mm); or

ii. a material or a composite of different materials determined to have both organic permeability properties that are equivalent to those of the material listed in Subsection C.1.b.i of this Section and chemical and physical properties that maintain the material integrity for the intended service life of the material;

c. the cover shall be installed in a manner such that there are no visible cracks, holes, gaps, or other open spaces between cover section seams or between the interface of the cover edge and its foundation mountings;

d. except as provided for in Subsection C.1.e of this Section, each opening in the floating membrane cover shall be equipped with a closure device designed to operate such that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the cover opening and the closure device;

e. the floating membrane cover may be equipped with one or more emergency cover drains for removal of stormwater. Each emergency cover drain shall be equipped with a slotted membrane fabric cover that covers at least 90 percent of the area of the opening or a flexible fabric sleeve seal; and

f. the closure devices shall be made of suitable materials that will minimize exposure of the hazardous waste to the atmosphere, to the extent practical, and will maintain the integrity of the closure devices throughout their intended service life. Factors to be considered when selecting the materials of construction and designing the cover and closure devices shall include: organic vapor permeability; the effects of any contact with the liquid and its vapor managed in the surface impoundment; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the surface impoundment on which the floating membrane cover is installed;

2. whenever a hazardous waste is in the surface impoundment, the floating membrane cover shall float on the liquid and each closure device shall be secured in the closed position except as follows:

a. opening of closure devices or removal of the cover is allowed at the following times:

i. to provide access to the surface impoundment for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a port to sample the liquid in the surface impoundment or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity, the owner or operator shall promptly replace the cover and secure the closure device in the closed position, as applicable; and

ii. to remove accumulated sludge or other residues from the bottom of the surface impoundment; and

b. opening of a safety device, as defined in LAC 33:V.4721, is allowed at any time conditions require doing so to avoid an unsafe condition; and

3. the owner or operator shall inspect the floating membrane cover in accordance with the following procedures:

a. the floating membrane cover and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in the cover section seams or between the interface of the cover edge and its foundation mountings; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices; and

b. the owner or operator shall perform an initial inspection of the floating membrane cover and its closure devices on or before the date that the surface impoundment becomes subject to this Section. Thereafter, the owner or operator shall perform the inspections at least once every year, except for the special conditions provided for in Subsection G of this Section;

c. in the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection F of this Section; and

d. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.C.

D. The owner or operator who controls air pollutant emissions from a surface impoundment using a cover vented to a control device shall meet the requirements specified in Subsection D.1-3 of this Section.

1. the surface impoundment shall be covered by a cover and vented directly through a closed-vent system to a control device in accordance with the following requirements:

a. the cover and its closure devices shall be designed to form a continuous barrier over the entire surface area of the liquid in the surface impoundment;

b. each opening in the cover not vented to the control device shall be equipped with a closure device. If the pressure in the vapor headspace underneath the cover is less than atmospheric pressure when the control device is operating, the closure devices shall be designed to operate such that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the cover opening and the closure device. If the pressure in the vapor headspace underneath the cover is equal to or greater than atmospheric pressure when the control device is operating, the closure device shall be designed to operate with no detectable organic emissions using the procedure specified in LAC 33:V.1753.D;

c. the cover and its closure devices shall be made of suitable materials that will minimize exposure of the hazardous waste to the atmosphere, to the extent practical, and will maintain the integrity of the cover and closure devices throughout their intended service life. Factors to be considered when selecting the materials for and designing the cover and closure devices shall include organic vapor permeability; the effects of any contact with the liquid or its vapors managed in the surface impoundment; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the surface impoundment on which the cover is installed; and

d. the closed-vent system and control device shall be designed and operated in accordance with the requirements of LAC 33:V.1761;

2. whenever a hazardous waste is in the surface impoundment, the cover shall be installed with each closure device secured in the closed position and the vapor headspace underneath the cover vented to the control device except as follows:

a. venting to the control device is not required, and opening of closure devices or removal of the cover is allowed at the following times:

i. to provide access to the surface impoundment for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a port to sample liquid in the surface impoundment or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity, the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable, to the surface impoundment; and

ii. to remove accumulated sludge or other residues from the bottom of the surface impoundment;

b. opening of a safety device, as defined in LAC 33:V.4721, is allowed at any time conditions require doing so to avoid an unsafe condition;

3. the owner or operator shall inspect and monitor the air emission control equipment in accordance with the following procedures:

a. the surface impoundment cover and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in the cover section seams or between the interface of the cover edge and its foundation mountings; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices;

b. the closed-vent system and control device shall be inspected and monitored by the owner or operator in accordance with the procedures specified in LAC 33:V.1761;

c. the owner or operator shall perform an initial inspection of the air emission control equipment on or before the date that the surface impoundment becomes subject to this Section. Thereafter, the owner or operator shall perform the inspections at least once every year, except for the special conditions provided for in Subsection G of this Section;

d. in the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection F of this Section; and

e. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.C.

E. The owner or operator shall transfer hazardous waste to a surface impoundment subject to this Section in accordance with the following requirements:

1. transfer of hazardous waste, except as provided in Subsection E.2 of this Section, to the surface impoundment from another surface impoundment subject to this Section or

from a tank subject to LAC 33:V.1755 shall be conducted using continuous hard-piping or another closed system that does not allow exposure of the waste to the atmosphere. For the purpose of complying with this provision, an individual drain system is considered to be a closed system when it meets the requirements of 40 CFR part 63, subpart RR—National Emission Standards for Individual Drain Systems; and

2. the requirements of Subsection E.1 of this Section do not apply when transferring a hazardous waste to the surface impoundment under either of the following conditions:

a. the hazardous waste meets the average VO concentration conditions specified in LAC 33:V.1751.C.1 at the point of waste origination;

b. the hazardous waste has been treated by an organic destruction or removal process to meet the requirements in LAC 33:V.1751.C.2.

F. The owner or operator shall repair each defect detected during an inspection performed in accordance with the requirements of Subsection C.3 or D.3 of this Section:

1. the owner or operator shall make first efforts at repair of the defect no later than five calendar days after detection, and repair shall be completed as soon as possible, but no later than 45 calendar days, after detection except as provided in Subsection F.2 of this Section;

2. repair of a defect may be delayed beyond 45 calendar days if the owner or operator determines that repair of the defect requires emptying or temporary removal from service of the surface impoundment and no alternative capacity is available at the site to accept the hazardous waste normally managed in the surface impoundment. In this case, the owner or operator shall repair the defect the next time the process or unit that is generating the hazardous waste managed in the surface impoundment stops operation. Repair of the defect shall be completed before the process or unit resumes operation.

G. Following the initial inspection and monitoring of the cover as required by the applicable provisions of this Subchapter, subsequent inspection and monitoring may be performed at intervals longer than one year in the case when inspecting or monitoring the cover would expose a worker to dangerous, hazardous, or other unsafe conditions. In this case, the owner or operator may designate the cover as an "unsafe to inspect and monitor cover" and comply with all of the following requirements:

1. prepare a written explanation for the cover stating the reasons why the cover is unsafe to visually inspect or to monitor, if required; and

2. develop and implement a written plan and schedule to inspect and monitor the cover using the procedures specified in the applicable section of this Subchapter as frequently as practicable during those times when a worker can safely access the cover.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§1759. Standards: Containers

A. The provisions of this Section apply to the control of air pollutant emissions from containers for which LAC

33:V.1751.B references the use of this Section for such air emission control.

B. General Requirements

1. The owner or operator shall control air pollutant emissions from each container subject to this Section in accordance with the following requirements, as applicable to the container, except when the special provisions for waste stabilization processes specified in Subsection B.2 of this Section apply to the container:

a. for a container having a design capacity greater than 0.1 m³ and less than or equal to 0.46 m³, the owner or operator shall control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in Subsection C of this Section;

b. for a container having a design capacity greater than 0.46 m³ that is not in light material service, the owner or operator shall control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in Subsection C of this Section; and

c. for a container having a design capacity greater than 0.46 m³ that is in light material service, the owner or operator shall control air pollutant emissions from the container in accordance with the Container Level 2 standards specified in Subsection D of this Section.

2. When a container having a design capacity greater than 0.1 m³ is used for treatment of a hazardous waste by a waste stabilization process, the owner or operator shall control air pollutant emissions from the container in accordance with the Container Level 3 standards specified in Subsection E of this Section at those times during the waste stabilization process when the hazardous waste in the container is exposed to the atmosphere.

C. Container Level 1 Standards

1. A container using Container Level 1 controls is one of the following:

a. a container that meets the applicable U.S. Department of Transportation (DOT) regulations on packaging hazardous materials for transportation, as specified in Subsection F of this Section;

b. a container equipped with a cover and closure devices that form a continuous barrier over the container openings such that when the cover and closure devices are secured in the closed position there are no visible holes, gaps, or other open spaces into the interior of the container. The cover may be a separate cover installed on the container (e.g., a lid on a drum or a suitably secured tarp on a roll-off box) or may be an integral part of the container structural design (e.g., a "portable tank" or bulk cargo container equipped with a screw-type cap);

c. an open-top container in which an organic-vapor-suppressing barrier is placed on or over the hazardous waste in the container such that no hazardous waste is exposed to the atmosphere. One example of such a barrier is application of a suitable organic-vapor-suppressing foam.

2. A container used to meet the requirements of Subsection C.1.b or c of this Section shall be equipped with covers and closure devices, as applicable to the container, that are composed of suitable materials to minimize exposure of the hazardous waste to the atmosphere and to maintain the

equipment integrity for as long as it is in service. Factors to be considered in selecting the materials of construction and designing the cover and closure devices shall include organic vapor permeability, the effects of contact with the hazardous waste or its vapor managed in the container; the effects of outdoor exposure of the closure device or cover material to wind, moisture, and sunlight; and the operating practices for which the container is intended to be used.

3. Whenever a hazardous waste is in a container using Container Level 1 controls, the owner or operator shall install all covers and closure devices for the container, as applicable to the container, and secure and maintain each closure device in the closed position except as follows:

a. opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container as follows:

i. in the case when the container is filled to the intended final level in one continuous operation, the owner or operator shall promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation; and

ii. in the case when discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator shall promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon either the container being filled to the intended final level, the completion of a batch loading after which no additional material will be added to the container within 15 minutes, the person performing the loading operation leaving the immediate vicinity of the container, or the shutdown of the process generating the material being added to the container, whichever condition occurs first;

b. opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container as follows:

i. for the purpose of meeting the requirements of this Section an empty container, as defined in LAC 33:V.109, may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container);

ii. in the case when discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container, as defined in LAC 33:V.109, the owner or operator shall promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first;

c. opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container or when a worker needs to open a manhole hatch to access equipment inside the container. Following

completion of the activity the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container;

d. opening of a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the internal pressure of the container in accordance with the container design specifications. The device shall be designed to operate with no detectable organic emissions when the device is secured in the closed position. The settings at which the device opens shall be established such that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations; and

e. opening of a safety device, as defined in LAC 33:V.4721, is allowed at any time conditions require doing so to avoid an unsafe condition.

4. The owner or operator of containers using Container Level 1 controls shall inspect the containers and their covers and closure devices as follows:

a. in the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied (i.e., does not meet the conditions for an empty container as specified in LAC 33:V.109) within 24 hours after the container is accepted at the facility, the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection C.4.c of this Section;

b. in the case when a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator shall visually inspect the container and its cover and closure devices initially and, thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection C.4.c of this Section;

c. when a defect is detected for the container, cover, or closure devices, the owner or operator shall make first efforts at repair of the defect no later than 24 hours after detection, and repair shall be completed as soon as possible, but no later than five calendar days, after detection. If repair of a defect cannot be completed within five calendar days, then

the hazardous waste shall be removed from the container and the container shall not be used to manage hazardous waste until the defect is repaired.

5. The owner or operator shall maintain at the facility a copy of the procedure used to determine that containers with a capacity of 0.46 m³ or greater, which do not meet applicable DOT regulations as specified in Subsection F of this Section, are not managing hazardous waste in light material service.

D. Container Level 2 Standards

1. A container using Container Level 2 controls is one of the following:

a. a container that meets the applicable DOT regulations on packaging hazardous materials for transportation, as specified in Subsection F of this Section;

b. a container that operates with no detectable organic emissions as defined in LAC 33:V.4721 and determined in accordance with the procedure specified in Subsection G of this Section;

c. a container that has been demonstrated within the preceding 12 months to be vapor-tight by using 40 CFR part 60, appendix A, Method 27 in accordance with the procedure specified in Subsection H of this Section.

2. Transfer of hazardous waste in or out of a container using Container Level 2 controls shall be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical, considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive, or other hazardous materials. Examples of container loading procedures that the EPA considers to meet the requirements of this Paragraph include using any one of the following: a submerged-fill pipe or other submerged-fill method to load liquids into the container, a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations, or a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.

3. Whenever a hazardous waste is in a container using Container Level 2 controls, the owner or operator shall install all covers and closure devices for the container and secure and maintain each closure device in the closed position except as follows:

a. opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container as follows:

i. in the case when the container is filled to the intended final level in one continuous operation, the owner or operator shall promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation;

ii. in the case when discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator shall promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon either the container being filled to the intended final level, the completion of a batch loading after which no additional material will be added to the

container within 15 minutes, the person performing the loading operation leaving the immediate vicinity of the container, or the shutdown of the process generating the material being added to the container, whichever condition occurs first;

b. opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container as follows:

i. for the purpose of meeting the requirements of this Section an empty container, as defined in LAC 33:V.109, may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container);

ii. in the case when discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container, as defined in LAC 33:V.109, the owner or operator shall promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first;

c. opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container or when a worker needs to open a manhole hatch to access equipment inside the container. Following completion of the activity the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container;

d. opening of a spring-loaded, pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the internal pressure of the container in accordance with the container design specifications. The device shall be designed to operate with no detectable organic emission when the device is secured in the closed position. The settings at which the device opens shall be established such that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations;

e. opening of a safety device, as defined in LAC 33:V.4721, is allowed at any time conditions require doing so to avoid an unsafe condition.

4. The owner or operator of containers using Container Level 2 controls shall inspect the containers and their covers

and closure devices as follows:

a. in the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied (i.e., does not meet the conditions for an empty container as specified in LAC 33:V.109) within 24 hours after the container arrives at the facility, the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection D.4.c of this Section;

b. in the case when a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator shall visually inspect the container and its cover and closure devices initially and, thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection D.4.c of this Section;

c. when a defect is detected for the container, cover, or closure devices, the owner or operator shall make first efforts at repair of the defect no later than 24 hours after detection, and repair shall be completed as soon as possible, but no later than five calendar days, after detection. If repair of a defect cannot be completed within five calendar days, then the hazardous waste shall be removed from the container and the container shall not be used to manage hazardous waste until the defect is repaired.

E. Container Level 3 Standards

1. A container using Container Level 3 controls is one of the following:

a. a container that is vented directly through a closed-vent system to a control device in accordance with the requirements of Subsection E.2.b of this Section;

b. a container that is vented inside an enclosure that is exhausted through a closed-vent system to a control device in accordance with the requirements of Subsection E.2.a and b of this Section.

2. The owner or operator shall meet the following requirements, as applicable to the type of air emission control equipment selected by the owner or operator:

a. the container enclosure shall be designed and operated in accordance with the criteria for a permanent total enclosure as specified in *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* under 40 CFR 52.741, appendix B. The enclosure may have permanent or temporary openings to allow worker access, passage of containers through the enclosure by conveyor or other mechanical means, entry of permanent mechanical or electrical equipment, or direct airflow into the enclosure. The owner or operator shall perform the verification procedure for the enclosure as specified in section 5.0 to *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* initially when the enclosure is

first installed and, thereafter, annually; and

b. the closed-vent system and control device shall be designed and operated in accordance with the requirements of LAC 33:V.1761.

3. Safety devices, as defined in LAC 33:V.4721, may be installed and operated as necessary on any container, enclosure, closed-vent system, or control device used to comply with the requirements of Subsection E.1 of this Section.

4. Owners and operators using Container Level 3 controls in accordance with the provisions of this Subchapter shall inspect and monitor the closed-vent systems and control devices as specified in LAC 33:V.1761.

5. Owners and operators that use Container Level 3 controls in accordance with the provisions of this Subchapter shall prepare and maintain the records specified in LAC 33:V.1765.D.

F. For the purpose of compliance with Subsection C.1.a or D.1.a of this Section, containers shall be used that meet the applicable DOT regulations on packaging hazardous materials for transportation as follows:

1. the container meets the applicable requirements specified in 49 CFR part 178—Specifications for Packaging or 49 CFR part 179—Specifications for Tank Cars;

2. hazardous waste is managed in the container in accordance with the applicable requirements specified in 49 CFR part 107, subpart B—Exemptions; 49 CFR part 172—Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements; 49 CFR part 173—Shippers—General Requirements for Shipments and Packages; and 49 CFR part 180—Continuing Qualification and Maintenance of Packagings;

3. for the purpose of complying with this Subchapter, no exceptions to the 49 CFR part 178 or part 179 regulations are allowed except as provided for in Subsection F.4 of this Section; and

4. for a lab pack that is managed in accordance with the requirements of 49 CFR part 178 for the purpose of complying with this Subchapter, an owner or operator may comply with the exceptions for combination packagings specified in 49 CFR 173.12(b).

G. The owner or operator shall use the procedure specified in LAC 33:V.1753.D for determining when a container operates with no detectable organic emissions for the purpose of complying with Subsection D.1.b of this Section.

1. Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the container, its cover, and associated closure devices, as applicable to the container, shall be checked. Potential leak interfaces that are associated with containers include, but are not limited to, the interface of the cover rim and the container wall, the periphery of any opening on the container or container cover and its associated closure device, and the sealing seat interface on a spring-loaded pressure-relief valve.

2. The test shall be performed when the container is filled with a material having a volatile organic concentration representative of the range of volatile organic concentrations for the hazardous wastes expected to be managed in this type

of container. During the test, the container cover and closure devices shall be secured in the closed position.

H. The owner or operator shall use the procedure for determining a container to be vapor-tight using Method 27 of 40 CFR part 60, appendix A for the purpose of complying with Subsection D.1.c of this Section.

1. The test shall be performed in accordance with Method 27 of 40 CFR part 60, appendix A.

2. A pressure measurement device shall be used that has a precision of ± 2.5 mm water and that is capable of measuring above the pressure at which the container is to be tested for vapor tightness.

3. If the test results determined by Method 27 indicate that the container sustains a pressure change less than or equal to 750 Pascals within five minutes after it is pressurized to a minimum of 4,500 Pascals, then the container is determined to be vapor-tight.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§1761. Standards: Closed-Vent Systems and Control Devices

A. This Section applies to each closed-vent system and control device installed and operated by the owner or operator to control air emissions in accordance with standards of this Subchapter.

B. The closed-vent system shall meet the following requirements:

1. shall route the gases, vapors, and fumes emitted from the hazardous waste in the waste management unit to a control device that meets the requirements specified in Subsection C of this Section;

2. shall be designed and operated in accordance with the requirements specified in LAC 33:V.1709.K;

3. in the case when the closed-vent system includes bypass devices that could be used to divert the gas or vapor stream to the atmosphere before entering the control device, each bypass device shall be equipped with either a flow indicator as specified in Subsection B.3.a of this Section or a seal or locking device as specified in Subsection B.3.b of this Section. For the purpose of complying with this Paragraph, low leg drains, high point bleeds, analyzer vents, open-ended valves or lines, spring-loaded pressure-relief valves, and other fittings used for safety purposes are not considered to be bypass devices:

a. if a flow indicator is used to comply with this Subsection, the indicator shall be installed at the inlet to the bypass line used to divert gases and vapors from the closed-vent system to the atmosphere at a point upstream of the control device inlet. For this paragraph, a flow indicator means a device that indicates the presence of either gas or vapor flow in the bypass line;

b. if a seal or locking device is used to comply with this Subsection, the device shall be placed on the mechanism by which the bypass device position is controlled (e.g., valve handle, damper lever) when the bypass device is in the closed position such that the bypass device cannot be opened without breaking the seal or removing the lock. Examples of such

devices include, but are not limited to, a car-seal or a lock-and-key configuration valve. The owner or operator shall visually inspect the seal or closure mechanism at least once every month to verify that the bypass mechanism is maintained in the closed position;

4. shall be inspected and monitored by the owner or operator in accordance with the procedure specified in LAC 33:V.1709.L.

C. The control device shall meet the following requirements:

1. shall be one of the following devices:

a. a control device designed and operated to reduce the total organic content of the inlet vapor stream vented to the control device by at least 95 percent by weight;

b. an enclosed combustion device designed and operated in accordance with the requirements of LAC 33:V.1709.C; or

c. a flare designed and operated in accordance with the requirements of LAC 33:V.1709.D;

2. the owner or operator who elects to use a closed-vent system and control device to comply with the requirements of this Section shall comply with the requirements specified in Subsection C.2.a-f of this Section:

a. periods of planned routine maintenance of the control device, during which the control device does not meet the specifications of Subsection C.1.a, b, or c of this Section, as applicable, shall not exceed 240 hours per year;

b. the specifications and requirements in Subsection C.1.a, b, or c of this Section for control devices do not apply during periods of planned routine maintenance;

c. the specifications and requirements in Subsection C.1.a, b, or c of this Section for control devices do not apply during a control device system malfunction;

d. the owner or operator shall demonstrate compliance with the requirements of Subsection C.2.a of this Section (i.e., planned routine maintenance of a control device, during which the control device does not meet the specifications of Subsection C.1.a, b, or c of this Section, as applicable, shall not exceed 240 hours per year) by recording the information specified in LAC 33:V.1765.E.1.e;

e. the owner or operator shall correct control device system malfunctions as soon as practicable after their occurrence in order to minimize excess emissions of air pollutants; and

f. the owner or operator shall operate the closed-vent system such that gases, vapors, or fumes are not actively vented to the control device during periods of planned maintenance or control device system malfunction (i.e., periods when the control device is not operating or not operating normally) except in cases when it is necessary to vent the gases, vapors, and/or fumes to avoid an unsafe condition or to implement malfunction corrective actions or planned maintenance actions;

3. the owner or operator using a carbon adsorption system to comply with Subsection C.1 of this Section shall operate and maintain the control device in accordance with the following requirements:

a. following the initial startup of the control device, all activated carbon in the control device shall be replaced with

fresh carbon on a regular basis in accordance with the requirements of LAC 33:V.1709.G or H; and

b. all carbon removed from the control device shall be managed in accordance with the requirements of LAC 33:V.1709.N;

4. an owner or operator using a control device other than a thermal vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with Subsection C.1 of this Section shall operate and maintain the control device in accordance with the requirements of LAC 33:V.1709.J;

5. the owner or operator shall demonstrate that a control device achieves the performance requirements of Subsection C.1 of this Section as follows:

a. an owner or operator shall demonstrate, using either a performance test as specified in Subsection C.5.c of this Section or a design analysis as specified in Subsection C.5.d of this Section, the performance of each control device except for the following:

i. a flare;

ii. a boiler or process heater with a design heat input capacity of 44 megawatts or greater;

iii. a boiler or process heater into which the vent stream is introduced with the primary fuel;

iv. a boiler or industrial furnace burning hazardous waste for which the owner or operator has been issued a final permit under LAC 33:V.Chapter 5 and has designed and operates the unit in accordance with the requirements of LAC 33:V.Chapter 30; or

v. a boiler or industrial furnace burning hazardous waste for which the owner or operator has designed and operates in accordance with the interim status requirements of LAC 33:V.Chapter 30;

b. an owner or operator shall demonstrate the performance of each flare in accordance with the requirements specified in LAC 33:V.1709.E;

c. for a performance test conducted to meet the requirements of Subsection C.5.a of this Section, the owner or operator shall use the test methods and procedures specified in LAC 33:V.1711.C.1-4;

d. for a design analysis conducted to meet the requirements of Subsection C.5.a of this Section, the design analysis shall meet the requirements specified in LAC 33:V.1713.B.4.c; and

e. the owner or operator shall demonstrate that a carbon adsorption system achieves the performance requirements of Subsection C.1 of this Section based on the total quantity of organics vented to the atmosphere from all carbon adsorption system equipment that is used for organic adsorption, organic desorption or carbon regeneration, organic recovery, and carbon disposal;

6. if the owner or operator and the administrative authority do not agree on a demonstration of control device performance using a design analysis, then the disagreement shall be resolved using the results of a performance test performed by the owner or operator in accordance with the requirements of Subsection C.5.c of this Section. The administrative authority may choose to have an authorized representative observe the performance test; and

7. the control device shall be inspected and monitored by the owner or operator in accordance with the procedures specified in LAC 33:V.1709.F.2 and L. The readings from each monitoring device required by LAC 33:V.1709.F.2 shall be inspected at least once each operating day to check control device operation. Any necessary corrective measures shall be immediately implemented to ensure the control device is operated in compliance with the requirements of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§1763. Inspection and Monitoring Requirements

A. The owner or operator shall inspect and monitor air emission control equipment used to comply with this Chapter in accordance with the applicable requirements specified in LAC 33:V.1755-1761.

B. The owner or operator shall develop and implement a written plan and schedule to perform the inspections and monitoring required by Subsection A of this Section. The owner or operator shall incorporate this plan and schedule into the facility inspection plan required under LAC 33:V.1509.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§1765. Recordkeeping Requirements

A. Each owner or operator of a facility subject to requirements in this Subchapter shall record and maintain the information specified in Subsections B-I of this Section, as applicable to the facility. Except for air emission control equipment design documentation and information required by Subsection I of this Section, records required by this Section shall be maintained in the operating record for a minimum of three years. Air emission control equipment design documentation shall be maintained in the operating record until the air emission control equipment is replaced or otherwise no longer in service. Information required by Subsection I of this Section shall be maintained in the operating record for as long as the tank or container is not using air emission controls specified in LAC 33:V.1755-1761 in accordance with the conditions specified in LAC 33:V.1755.D.

B. The owner or operator of a tank using air emission controls in accordance with the requirements of LAC 33:V.1755 shall prepare and maintain records for the tank that include the following information:

1. for each tank using air emission controls in accordance with the requirements of LAC 33:V.1755, the owner or operator shall record:

a. a tank identification number (or other unique identification description as selected by the owner or operator); and

b. a record for each inspection required by LAC 33:V.1755 that includes the following information:

i. date inspection was conducted; and

ii. for each defect detected during the inspection, include the following information: the location of the defect,

a description of the defect, the date of detection, and corrective action taken to repair the defect. In the event that repair of the defect is delayed in accordance with the provisions of LAC 33:V.1755, the owner or operator shall also record the reason for the delay and the date that completion of repair of the defect is expected; and

2. in addition to the information required by Subsection B.1 of this Section, the owner or operator shall record the following information, as applicable to the tank:

a. the owner or operator using a fixed roof to comply with the Tank Level 1 control requirements specified in LAC 33:V.1755.C shall prepare and maintain records for each determination for the maximum organic vapor pressure of the hazardous waste in the tank performed in accordance with the requirements of LAC 33:V.1755.C. The records shall include the date and time the samples were collected, the analysis method used, and the analysis results;

b. the owner or operator using an internal floating roof to comply with the Tank Level 2 control requirements specified in LAC 33:V.1755.E shall prepare and maintain documentation describing the floating roof design;

c. owners and operators using an external floating roof to comply with the Tank Level 2 control requirements specified in LAC 33:V.1755.F shall prepare and maintain the following records:

i. documentation describing the floating roof design and the dimensions of the tank; and

ii. records for each seal gap inspection required by LAC 33:V.1755.F.3 describing the results of the seal gap measurements. The records shall include the date that the measurements were performed, the raw data obtained for the measurements, and the calculations of the total gap surface area. In the event that the seal gap measurements do not conform to the specifications in LAC 33:V.1755.F.1, the records shall include a description of the repairs that were made, the date the repairs were made, and the date the tank was emptied, if necessary; and

d. each owner or operator using an enclosure to comply with the Tank Level 2 control requirements specified in LAC 33:V.1755.I shall prepare and maintain the following records:

i. records for the most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* under 40 CFR 52.741, appendix B; and

ii. records required for the closed-vent system and control device in accordance with the requirements of Subsection E of this Section.

C. The owner or operator of a surface impoundment using air emission controls in accordance with the requirements of LAC 33:V.1757 shall prepare and maintain records for the surface impoundment that include the following information:

1. a surface impoundment identification number (or other unique identification description as selected by the owner or operator);

2. documentation describing the floating membrane cover or cover design, as applicable to the surface

impoundment, that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design and certification by the owner or operator that the cover meets the specifications listed in LAC 33:V.1757.C;

3. a record for each inspection required by LAC 33:V.1757 that includes the following information:

a. date inspection was conducted; and

b. for each defect detected during the inspection, include the following, the location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. In the event that repair of the defect is delayed in accordance with the provisions of LAC 33:V.1757.F, the owner or operator shall also record the reason for the delay and the date that completion of repair of the defect is expected; and

4. for a surface impoundment equipped with a cover and vented through a closed-vent system to a control device, the owner or operator shall prepare and maintain the records specified in Subsection E of this Section.

D. The owner or operator of containers using Container Level 3 air emission controls in accordance with the requirements of LAC 33:V.1759 shall prepare and maintain records that include the following information:

1. records for the most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* under 40 CFR 52.741, appendix B; and

2. records required for the closed-vent system and control device in accordance with the requirements of Subsection E of this Section.

E. The owner or operator using a closed-vent system and control device in accordance with the requirements of LAC 33:V.1761 shall prepare and maintain records that include documentation for the closed-vent system and control device that includes:

1. certification that is signed and dated by the owner or operator stating that the control device is designed to operate at the performance level documented by a design analysis as specified in Subsection E.2 of this Section or by performance tests as specified in Subsection E.3 of this Section when the tank, surface impoundment, or container is or would be operating at capacity or the highest level reasonably expected to occur;

2. if a design analysis is used, then design documentation as specified in LAC 33:V.1713.B.4. The documentation shall include information prepared by the owner or operator or provided by the control device manufacturer or vendor that describes the control device design in accordance with LAC 33:V.1713.B.4.c and certification by the owner or operator that the control equipment meets the applicable specifications;

3. if performance tests are used, then a performance test plan as specified in LAC 33:V.1713.B.3 and all test results;

4. information as required by LAC 33:V.1713.C.1 and 2, as applicable;

5. an owner or operator shall record, on a semiannual

basis, the information specified in Subsection E.5.a and b of this Section for those planned routine maintenance operations that would require the control device not to meet the requirements of LAC 33:V.1761.C.1.a, b, or c, as applicable:

a. a description of the planned routine maintenance that is anticipated to be performed for the control device during the next six-month period. This description shall include the type of maintenance necessary, planned frequency of maintenance, and lengths of maintenance periods; and

b. a description of the planned routine maintenance that was performed for the control device during the previous six-month period. This description shall include the type of maintenance performed and the total number of hours during those six months that the control device did not meet the requirements of LAC 33:V.1761.C.1.a, b, or c, as applicable, due to planned routine maintenance;

6. an owner or operator shall record the information specified in Subsection E.6.a-c of this Section for those unexpected control device system malfunctions that would require the control device not to meet the requirements of LAC 33:V.1761.C.1.a, b, or c, as applicable:

a. the occurrence and duration of each malfunction of the control device system;

b. the duration of each period during a malfunction when gases, vapors, or fumes are vented from the waste management unit through the closed-vent system to the control device while the control device is not properly functioning; and

c. actions taken during periods of malfunction to restore a malfunctioning control device to its normal or usual manner of operation; and

7. records of the management of carbon removed from a carbon adsorption system conducted in accordance with LAC 33:V.1761.C.3.b.

F. The owner or operator of a tank, surface impoundment, or container exempted from standards in accordance with the provisions of LAC 33:V.1751.C shall prepare and maintain the following records, as applicable:

1. for tanks, surface impoundments, or containers exempted under the hazardous waste organic concentration conditions specified in LAC 33:V.1751.C.1 or 2, the owner or operator shall record the information used for each waste determination (e.g., test results, measurements, calculations, and other documentation) in the facility operating log. If analysis results for waste samples are used for the waste determination, then the owner or operator shall record the date, time, and location that each waste sample is collected in accordance with applicable requirements of LAC 33:V.1753;

2. for tanks, surface impoundments, or containers exempted under the provisions of LAC 33:V.1751.C.2.g or h, the owner or operator shall record the identification number for the incinerator, boiler, or industrial furnace in which the hazardous waste is treated.

G. An owner or operator designating a cover as "unsafe to inspect and monitor" in accordance with LAC 33:V.1755.L or 1757.G shall record in a log that is kept in the facility operating record the following information: the identification numbers for waste management units with covers that are designated as "unsafe to inspect and monitor"; the explanation

for each cover stating why the cover is unsafe to inspect and monitor; and the plan and schedule for inspecting and monitoring each cover.

H. The owner or operator of a facility that is subject to this Subchapter and to the control device standards in 40 CFR part 60, subpart VV or 40 CFR part 61, subpart V may elect to demonstrate compliance with the applicable sections of this Subchapter by documentation either in accordance with this Subchapter or the provisions of 40 CFR part 60, subpart VV or 40 CFR part 61, subpart V, to the extent that the documentation required by 40 CFR part 60 or 61 duplicates the documentation required by this Section.

I. For each tank or container not using air emission controls specified in LAC 33:V.1755 - 1761 in accordance with the conditions specified in LAC 33:V.1747.D, the owner or operator shall record and maintain the following information:

1. a list of the individual organic peroxide compounds manufactured at the facility that meet the conditions specified in LAC 33:V.1747.D.1;

2. a description of how the hazardous waste containing the organic peroxide compounds identified in Subsection I.1 of this Section are managed at the facility in tanks and containers. This description shall include:

a. for the tanks used at the facility to manage this hazardous waste, sufficient information shall be provided to describe, for each tank, a facility identification number for the tank; the purpose and placement of this tank in the management train of this hazardous waste, and the procedures used to ultimately dispose of the hazardous waste managed in the tanks; and

b. for containers used at the facility to manage these hazardous wastes, sufficient information shall be provided to describe a facility identification number for the container or group of containers, the purpose and placement of this container or group of containers in the management train of this hazardous waste, and the procedures used to ultimately dispose of the hazardous waste handled in the containers;

3. an explanation of why managing the hazardous waste containing the organic peroxide compounds identified in Subsection I.1 of this Section in the tanks and containers as described in Subsection I.2 of this Section would create an undue safety hazard if the air emission controls, as required under LAC 33:V.1755 - 1761, are installed and operated on these waste management units. This explanation shall include the following information:

a. for tanks used at the facility to manage these hazardous wastes, sufficient information shall be provided to explain how use of the required air emission controls on the tanks would affect the tank design features and facility operating procedures currently used to prevent an undue safety hazard during the management of this hazardous waste in the tanks, and why installation of safety devices on the required air emission controls, as allowed under this Subchapter, will not address those situations in which evacuation of tanks equipped with these air emission controls is necessary and consistent with good engineering and safety practices for handling organic peroxides; and

b. for containers used at the facility to manage these hazardous wastes, sufficient information shall be provided to

explain how use of the required air emission controls on the containers would affect the container design features and handling procedures currently used to prevent an undue safety hazard during the management of this hazardous waste in the containers, and why installation of safety devices on the required air emission controls, as allowed under this Subchapter, will not address those situations in which evacuation of containers equipped with these air emission controls is necessary and consistent with good engineering and safety practices for handling organic peroxides.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§1767. Reporting Requirements

A. Each owner or operator managing hazardous waste in a tank, surface impoundment, or container exempted from using air emission controls under the provisions of LAC 33:V.1751.C shall report to the administrative authority each occurrence when hazardous waste is placed in the waste management unit in noncompliance with the conditions specified in LAC 33:V.1751.C.1 or 2, as applicable. Examples of such occurrences include placing in the waste management unit a hazardous waste having an average VO concentration equal to or greater than 500 ppmw at the point of waste origination or placing in the waste management unit a treated hazardous waste of which the organic content has been reduced by an organic destruction or removal process that fails to achieve the applicable conditions specified in LAC 33:V.1751.C.2.a-f. The owner or operator shall submit a written report within 15 calendar days of the time that the owner or operator becomes aware of the occurrence. The written report shall contain the EPA identification number, facility name and address, a description of the noncompliance event and the cause, the dates of the noncompliance, and the actions taken to correct the noncompliance and prevent recurrence of the noncompliance. The report shall be signed and dated by an authorized representative of the owner or operator.

B. Each owner or operator using air emission controls on a tank in accordance with the requirements LAC 33:V.1755.C shall report to the administrative authority each occurrence when hazardous waste is managed in the tank in noncompliance with the conditions specified in LAC 33:V.1755.B. The owner or operator shall submit a written report within 15 calendar days of the time that the owner or operator becomes aware of the occurrence. The written report shall contain the EPA identification number, facility name and address, a description of the noncompliance event and the cause, the dates of the noncompliance, and the actions taken to correct the noncompliance and prevent recurrence of the noncompliance. The report shall be signed and dated by an authorized representative of the owner or operator.

C. Each owner or operator using a control device in accordance with the requirements of LAC 33:V.1761 shall submit a semiannual written report to the administrative authority, except as provided for in Subsection D of this Section. The report shall describe each occurrence during the previous six-month period when either:

1. a control device is operated continuously for 24 hours or longer in compliance with the applicable operating values defined in LAC 33:V.1713.C.4; or

2. a flare is operated with visible emissions for five minutes or longer in a two-hour period, as defined in LAC 33:V.1709.D. The written report shall include the EPA identification number, facility name and address, an explanation why the control device could not be returned to compliance within 24 hours, and actions taken to correct the noncompliance. The report shall be signed and dated by an authorized representative of the owner or operator.

D. A report to the administrative authority in accordance with the requirements of Subsection C of this Section is not required for a six-month period during which all control devices subject to this Chapter are operated by the owner or operator such that:

1. during no period of 24 hours or longer did a control device operate continuously in noncompliance with the applicable operating values defined in LAC 33:V.1713.C.4; and

2. no flare was operated with visible emissions for five minutes or longer in a two-hour period, as defined in LAC 33:V.1709.D.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

Appendix

Table 1

Compounds With Henry's Law Constant Less Than 0.1 Y/X

[At 25EC]

Compound Name	CAS Number
Acetaldol	107-89-1
Acetamide	60-35-5
2-Acetylaminoflourene	53-96-3
3-Acetyl-5-hydroxypiperidine	
3-Acetyl piperidine	618-42-8
1-Acetyl-2-thiourea	591-08-2
Acrylamide	79-06-1
Acrylic acid	79-10-7
Adenine	73-24-5
Adipic acid	124-04-9
Adiponitrile	111-69-3
Alachlor	15972-60-8
Aldicarb	116-06-3
Ametryn	834-12-8
4-Aminobiphenyl	92-67-1
4-Aminopyridine	504-24-5

Aniline	62-53-3	m-Cresol	108-39-4
o-Anisidine	90-04-0	o-Cresol	95-48-7
Anthraquinone	84-65-1	p-Cresol	106-44-5
Atrazine	1912-24-9	Cresol (mixed isomers)	1319-77-3
Benzeneearsonic acid	98-05-5	4-Cumylphenol	27576-86
Benzenesulfonic acid	98-11-3	Cyanide	57-12-5
Benzidine	92-87-5	4-Cyanomethyl benzoate	
Benzo (a) anthracene	56-55-3	Diazinon	333-41-5
Benzo (k) flouranthene	207-08-9	Dibenzo (a, h) anthracene	53-70-3
Benzoic acid	65-85-0	Dibutylphthalate	84-74-2
Benzo (g,h,i) perylene	191-24-2	2,5-Dichloroaniline (N,N'-Dichloroaniline)	95-82-9
Benzo (a) pyrene	50-32-8	2,6-Dichlorobenzonitrile	1194-65-6
Benzyl alcohol	100-51-6	2,6-Dichloro-4-nitroaniline	99-30-9
gamma-BHC	58-89-9	2,5-Dichlorophenol	333-41-5
Bis (2-ethylhexyl) phthalate	117-81-7	3,4-Dichlorotetrahydrofuran	3511-19
Bromochloromethyl acetate		Dichlorvos (DDVP)	62737
Bromoxynil	1689-84-5	Diethanolamine	111-42-2
Butyric acid	107-92-6	N,N-Diethylaniline	91-66-7
Caprolactam (hexahydro-2H-azepin-2-one)	105-60-2	Diethylene glycol	111-46-6
Catechol (o-dihydroxybenzene)	120-80-9	Diethylene glycol dimethyl ether (dimethyl Carbitol)	111-96-6
Cellulose	9004-34-6	Diethylene glycol monobutyl ether (butyl Carbitol)	112-34-5
Cell wall		Diethylene glycol monoethyl ether acetate (Carbitol acetate)	112-15-2
Chlorohydrin (3 Chloro-1,2-propanediol)	96-24-2	Diethylene glycol monoethyl ether (Carbitol Cellosolve)	111-90-0
Chloroacetic acid	79-11-8	Diethylene glycol monomethyl ether (methyl Carbitol)	111-77-3
2-Chloroacetophenone	93-76-5	N,N' -Diethylhydrazine	1615-80-1
p-Chloroaniline	106-47-8	Diethyl (4-methylumbelliferyl) thiophosphate	299-45-6
p-Chlorobenzophenone	134-85-0	Diethyl phosphorothioate	126-75-0
Chlorobenzylate	510-15-6	N,N' -Diethyl propionamide	15299-99-77
p-Chloro-m-cresol (6-chloro-m-cresol)	59-50-7	Dimethoate	60-51-5
3-Chloro-2,5-diketopyrrolidine		2,3-Dimethoxystrychnidin-10-one	357-57-3
Chloro-1,2-ethane diol		4-Dimethylaminoazobenzene	60-11-7
4-Chlorophenol	106-48-9	7,12-Dimethylbenz(a)anthracene	57-97-6
Chlorophenol polymers (2-chlorophenol and 4-chlorophenol)	95-57-8 and 106-48-9	3,3-Dimethylbenzidine	119-93-7
1-(o-Chlorophenyl) thiourea	5344-82-1	Dimethylcarbamoyl chloride	79-44-7
Chrysene	218-01-9	Dimethyldisulfide	624-92-0
Citric acid	77-92-9		
Creosote	8001-58-9		

Dimethylformamide	68-12-2	Hexamethyl phosphoramidate	680-31-9
1,1 -Dimethylhydrazine	57-14-7	Hexanoic acid	142-62-1
Dimethylphthalate	131-11-3	Hydrazine	302-01-2
Dimethylsulfone	67-71-0	Hydrocyanic acid	74-90-8
Dimethylsulfoxide	67-68-5	Hydroquinone	123-31-9
4,6-Dinitro-o-cresol	534-52-1	Hydroxy-2-propionitrile (hydracrylonitrile)	109-78-4
1,2-Diphenylhydrazine	122-66-7	Indeno (1,2, 3-cd) pyrene	193-39-5
Dipropylene glycol (1,1'-oxydi-2-propanol)	110-98-5	Lead acetate	301-04-2
Endrin	72-20-8	Lead subacetate (lead acetate, monobasic)	1335-32-6
Epinephrine	51-43-4	Leucine	61-90-5
mono-Ethanolamine	141-43-5	Malathion	121-75-5
Ethyl carbamate (urethane)	5-17-96	Maleic acid	110-16-7
Ethylene glycol	107-21-1	Maleic anhydride	108-31-6
Ethylene glycol monobutyl ether (butyl Cellosolve)	111-76-2	Mesityl oxide	141-79-7
Ethylene glycol monoethyl ether (Cellosolve)	110-80-5	Methane sulfonic acid	75-75-2
Ethylene glycol monoethyl ether acetate (Cellosolve acetate)	111-15-9	Methomyl	16752-77-5
Ethylene glycol monomethyl ether (methyl Cellosolve)	109-86-4	p-Methoxyphenol	150-76-5
Ethylene glycol monophenyl ether (phenyl Cellosolve)	122-99-6	Methyl acrylate	96-33-3
Ethylene glycol monopropyl ether (propyl Cellosolve)	2807-30-9	4,4'-Methylene-bis-(2-chloroaniline)	101-14-4
Ethylene thiourea (2-imidazolidinethione)	9-64-57	4,4'-Methylenediphenyl diisocyanate (diphenyl methane diisocyanate)	101-68-8
4-Ethylmorpholine	100-74-3	4,4'-Methylenedianiline	101-77-9
3-Ethylphenol	620-17-7	Methylene diphenylamine (MDA)5-Methylfurfural	620-02-0
Flouroacetic acid, sodium salt	62-74-8	Methylhydrazine	60-34-4
Formaldehyde	50-00-0	Methyliminoacetic acid Methyl methane sulfonate	66-27-3
Formamide	75-12-7	1-Methyl-2-methoxyaziridine	298-00-0
Formic acid	64-18-6	Methylparathion	
Fumaric acid	110-17-8	Methyl sulfuric acid (sulfuric acid, dimethyl ester)	77-78-1
Glutaric acid	110-94-1	4-Methylthiophenol	106-45-6
Glycerin (Glycerol)	56-81-5	Monomethylformamide (N-methylformamide)	123-39-7
Glycidol	556-52-5	Nabam	142-59-6
Glycinamide	598-41-4	alpha-Naphthol	90-15-3
Glyphosate	1071-83-6	beta-Naphthol	135-19-3
Guthion	86-50-0	alpha-Naphthylamine	134-32-7
Hexamethylene-1,6-diisocyanate (1,6-Disocyanatohexane)	822-06-0	beta-Naphthylamine	91-59-8
		Neopentyl glycol (dimethylolpropane)	126-30-7

Niacinamide	98-92-0
o-Nitroaniline	88-74-4
Nitroglycerin	55-63-0
2-Nitrophenol	88-75-5
4-Nitrophenol	100-02-7
N-Nitrosodimethylamine	62-75-9
Nitrasoguanidine	674-81-7
N-Nitroso-n-methylurea	684-93-5
N-Nitrosomorpholine (4-Nitrosomorpholine)	59-89-2
Oxalic acid	144-62-7
Parathion	56-38-2
Pentaerythritol	115-77-5
Phenacetin	62-44-2
Phenol	108-95-2
Phenylacetic acid	103-82-2
m-Phenylene diamine	108-45-2
o-Phenylene diamine	95-54-5
p-Phenylene diamine	106-50-3
Phenyl mercuric acetate	62-38-4
Phorate	298-02-2
Phthalic anhydride	85-44-9
alpha-Piciline (2-methyl pyridine)	109-06-8
1,3-Propane sultone	1120-71-4
Beta-Propiolactone	57-57-8
Proporur (Baygon)	
Porpylene glycol	57-55-6
Pyrene	129-00-0
Pyridinium bromide	39416-48-3
Quinoline	91-22-5
Quinone (p-benzoquinone)	106-51-4
Resorcinol	108-46-3
Simazine	122-34-9
Sodium acetate	127-09-3
Sodium formate	141-53-7
Strychnine	57-24-9
Succinic acid	110-15-6
Succinimide	123-56-8
Sulfanilic acid	121-47-1

Terephthalic acid	100-21-0
Tetraethylthiopyrophosphate	3689-24-5
Tetraethylenepentamine	112-57-2
Thiofanox	39196-18-4
Thiosemicarbazide	79-19-6
2,4-Toluenediamine	95-80-7
2,6-Toluenediamine	823-40-5
3,4-Toluenediamine	496-72-0
2,4-Toluene diisocyanate	584-84-9
p-Toluic acid	99-94-5
m-Toluidine	108-44-1
1,1,2-Trichloro-1,2,2-Trifluoroethane	76-13-1
Triethanolamine	102-71-6
Triethylene glycol dimethyl ether Tripropylene glycol	24800-44-0
Warfarin	81-81-2
3,4-Xylenol (3,4-dimethylphenol)	95-65-8

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

Chapter 19. Tanks

§1921. Air Emission Standards

The owner or operator shall manage all hazardous waste placed in a tank in accordance with the applicable requirements of LAC 33:V.Chapter 17.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

Chapter 21. Containers

§2119. Air Emission Standards

The owner or operator shall manage all hazardous waste placed in a container in accordance with the applicable requirements of LAC 33:V.Chapter 17.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2201. Purpose, Scope, and Applicability

* * *

[See Prior Text in A - I.2]

3. de minimis losses of characteristic wastes to wastewaters are not considered to be prohibited wastes and are defined as losses from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves or other

devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; rinsate from empty containers or from containers that are rendered empty by that rinsing; and laboratory wastes not exceeding one percent of the total flow of wastewater into the facility's headworks on an annual basis or with a combined annualized average concentration not exceeding one part per million in the headworks of the facility's wastewater treatment or pretreatment facility;

4. Reserved.

* * *

[See Prior Text in I.5 - 5.c]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), LR 24:666 (April 1998), LR 24:1107 (June 1998), LR 24:

§2205. Storage of Prohibited Wastes

A. The storage of hazardous wastes prohibited from land disposal is prohibited except under the following conditions.

1. A generator may store such wastes in tanks, containers, or containment buildings on-site solely for the purpose of accumulating such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal and the generator complies with the requirements of LAC 33:V.1109.E, Chapters 9, 15, 17, 18, 19, 21, 23, 25, 26, 27, 28, 29, 31, 32, 33, 35, 37, 43, 51, and 53. A small quantity generator as defined in LAC 33:V.Chapter 39 may accumulate hazardous waste in accordance with LAC 33:V.3913.

* * *

[See Prior Text in A.2 - G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:220 (March 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§2209. Waste-Specific Prohibitions—Wood Preserving Wastes

A. Effective September 20, 1998, the following wastes are prohibited from land disposal: the wastes specified in LAC 33:V.Chapter 49 as EPA Hazardous Waste Numbers F032, F034, and F035.

B. Effective May 12, 1999, the following wastes are prohibited from land disposal: soil and debris contaminated with F032, F034, F035, and radioactive wastes mixed with EPA Hazardous Waste Numbers F032, F034, and F035.

C. Between September 20, 1998 and May 12, 1999, soil and debris contaminated with F032, F034, F035, and radioactive waste mixed with F032, F034, and F035 may be

disposed in a landfill or surface impoundment only if such unit is in compliance with the requirements specified in LAC 33:V.2239.I.2.

D. The requirements of Subsections A and B of this Section do not apply if:

1. an exemption from a prohibition has been granted pursuant to a petition under LAC 33:V.2241 or 2271 with respect to those wastes and units covered by the petition;

2. the wastes meet the applicable alternate treatment standards established in accordance with a petition granted under LAC 33:V.2231;

3. the wastes meet the applicable treatment standards specified in this Subchapter; or

4. persons have been granted an extension to the effective date of a prohibition in accordance with LAC 33:V.2239, with respect to those wastes covered by the extension.

E. To determine whether a hazardous waste identified in this Section exceeds the applicable treatment standards specified in LAC 33:V.2223, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents in excess of the applicable Universal Treatment Standard levels of Table 7 of this Chapter, the waste is prohibited from land disposal and all requirements of this Chapter are applicable, except as otherwise specified.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§2211. Waste-Specific Prohibitions—Dioxin-Containing Wastes

* * *

[See Prior Text in A - B.1]

2. the wastes are disposed of at a facility that has been granted an exemption from a prohibition in accordance with a petition under LAC 33:V.2241 or 2271 with respect to those wastes covered by the exemption; or

3. an extension to the effective date of a prohibition in accordance with LAC 33:V.2239, with respect to those wastes covered by the extension.

* * *

[See Prior Text in C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§2213. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR

16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), LR 22:819 (September 1996), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:

§2215. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:

§2217. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:

§2219. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:

§2221. Schedule of Wastes Identified or Listed After November 8, 1984

* * *

[See Prior Text in A - B]

C. Reserved.

* * *

[See Prior Text in D - E.5]

F. Waste-Specific Prohibitions: Spent Aluminum Potliners and Reactive and Carbamate Wastes

1. Effective April 20, 1998, the wastes specified in LAC 33:V.4901.C as EPA Hazardous Waste Numbers K156-K159, K161, and in LAC 33:V.4901.E as EPA Hazardous Waste Numbers P127, P128, P185, P188-P192, P194, P196-P199, P201-P205, U271, U278-U280, U364, U367, U372, U373, U387, U389, U394, U395, U404, and U409-U411 are prohibited from land disposal. In addition, soil and debris contaminated with these wastes are prohibited from land disposal.

* * *

[See Prior Text in F.2-3]

4. On April 20, 1998, radioactive wastes mixed with K088, K156-K159, K161, P127, P128, P185, P188-P192, P194, P196-P199, P201-P205, U271, U278-U280, U364, U367, U372, U373, U387, U389, U394, U395, U404, and U409-U411 are also prohibited from land disposal. In addition, soil and debris contaminated with these radioactive mixed wastes are prohibited from land disposal.

* * *

[See Prior Text in F.5-7]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:667 (April 1998), LR 24:

§2223. Applicability of Treatment Standards

* * *

[See Prior Text in A - B]

C. When wastes with differing treatment standards for a constituent of concern are combined for purposes of treatment, the treatment residue must meet the lowest treatment standard for the constituent of concern.

D. Notwithstanding the prohibitions specified in Subsection A of this Section, treatment and disposal facilities may demonstrate (and certify in accordance with LAC 33:V.2247.C) compliance with the treatment standards for organic constituents specified by footnote in LAC 33:V.Chapter 22.Table 2, Treatment Standards for Hazardous Wastes, provided the following conditions are satisfied:

1. the treatment standards for the organic constituents were established based on incineration in units operated in accordance with the technical requirements of LAC 33:V.Chapter 31 or based on combustion in fuel substitution units operating in accordance with applicable technical requirements;

2. the treatment or disposal facility has used the methods referenced in Subsection D.1 of this Section to treat the organic constituents; and

3. the treatment or disposal facility may demonstrate compliance with organic constituents if good-faith analytical efforts achieve detection limits for the regulated organic constituents that do not exceed the treatment standards specified in this Section by an order of magnitude.

E. For characteristic wastes (D001-D003 and D012-D043) that are subject to treatment standards in LAC 33:V.Chapter 22.Table 2, Treatment Standards for Hazardous Wastes, all underlying hazardous constituents (as defined in LAC 33:V.2203) must meet Universal Treatment Standards, found in LAC 33:V.Chapter 22.Table 7, prior to land disposal as defined in LAC 33:V.2203.

F. The treatment standards for F001-F005 nonwastewater constituents carbon disulfide, cyclohexanone, and/or methanol apply to wastes that contain only one, two, or three of these constituents. Compliance is measured for these constituents in the waste extract from Test Method 1311, the Toxicity Characteristic Leaching Procedure found in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110. If the waste contains any of these three constituents along with any of the other 25 constituents found in F001-F005, then compliance with treatment standards for carbon disulfide, cyclohexanone, and/or methanol are not required.

G. Between August 26, 1996, and August 26, 1998, the treatment standards for the wastes specified in LAC 33:V.4901.C as EPA Hazardous Waste Numbers K156-K159, K161 and in LAC 33:V.4901.E-F as EPA Hazardous Waste Numbers P127, P128, P185, P188-P192, P194, P196-P199, P201-P205, U271, U278-U280, U364-U367, U372, U373, U375-U379, U381-U387, U389-U396, U404, and U409-U411 and soil contaminated with these wastes were

satisfied by either meeting the constituent concentrations presented in LAC 33:V.Chapter 22.Table 2, or by treating the waste by the following technologies: combustion, as defined by the technology code CMBST at LAC 33:V.Chapter 22.Table 3, for nonwastewaters; and biodegradation as defined by the technology code BIODG, carbon adsorption as defined by the technology code CARBN, chemical oxidation as defined by the technology code CHOXD, or combustion as defined as technology code CMBST at LAC 33:V.Chapter 22.Table 3, for wastewaters.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:819 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:668 (April 1998), LR 24:

§2225. Repealed.

Editor's Note: For the requirements previously found in LAC 33:V.2225, refer to LAC 33:V.2223.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 23:565 (May 1997), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24.

§2229. Repealed.

Editor's Note: For the requirements previously found in LAC 33:V.2229, refer to LAC 33:V.2223.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:

§2237. Exemption for Surface Impoundments Treating Hazardous Waste

* * *

[See Prior Text in A - A.2]

a. Sampling and Testing. For wastes with treatment standards and/or prohibition levels in LAC 33:V.Chapter 22.Subchapter A or RCRA section 3004(d), the residues from the treatment must be analyzed, as specified in LAC 33:V.2245, 2247, or 2213.F and G to determine if they meet the applicable treatment standards or where no treatment standards have been established for the waste, the applicable prohibition levels. The sampling method, specified in the waste analysis plan under LAC 33:V.1519 or 4313, must be designed such that representative samples of the sludge and the supernatant are tested separately rather than mixed to form homogeneous samples.

* * *

[See Prior Text in A.2.b - c]

d. Recordkeeping. Sampling and testing and recordkeeping provisions of LAC 33:V.1519 and 4313 apply.

* * *

[See Prior Text in A.2.e - A.3.c]

4. The owner or operator must submit to the administrative authority a written certification that the requirements of Subsection A.3 of this Section have been met and a copy of the waste analysis plan required under Subsection A.2 of this Section. The following certification is required:

"I certify under penalty of law that the requirements of LAC 33:V.2237.A.3 have been met for all surface impoundments being used to treat prohibited wastes. I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

* * *

[See Prior Text in B - C.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§2239. Procedures for Case-by-Case Extensions of an Effective Date

* * *

[See Prior Text in A - A.2]

3. written evidence that due to circumstances beyond the applicant's control, such alternative capacity cannot reasonably be made available by the applicable effective date. This demonstration may include a showing that the technical and practical difficulties associated with providing the alternative capacity will result in the capacity not being available by the applicable effective date;

* * *

[See Prior Text in A.4 - E]

F. On the basis of the information referred to in Subsection A of this Section, after notice and opportunity for public comment, and after consultation with appropriate state agencies in all affected states, the administrative authority may grant an extension of up to one year from the effective date of the prohibition. The administrative authority may renew this extension for up to one additional year at the applicant's request if the demonstration required in Subsection A of this Section can still be made. In no event will an extension extend beyond 24 months from the applicable effective date specified in this Subchapter. The length of any extension authorized will be determined by the administrative authority based on the time required to construct or obtain the type of capacity the applicant needs, as described in the completion schedule discussed in Subsection A.5 of this Section. The administrative authority will give public notice of the intent to approve or deny a petition or for an extension and will provide an opportunity for public comment as provided in LAC 33:V.2243. The final decision on a petition or extension will be published in the official state journal.

* * *

[See Prior Text in G-J]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§2241. Exemptions to Allow Land Disposal of a Prohibited Waste Except by Deep Well Injection

* * *

[See Prior Text in A-J]

K. After receiving a petition, the administrative authority may request any additional information that may be reasonably required to evaluate the demonstration.

L. A petition submitted in accordance with this Section must apply to land disposal of the specific prohibited waste at the individual disposal unit described in the showing and demonstration and will not apply to any other prohibited waste at that disposal unit or to that specific prohibited waste at any other disposal unit.

M. The administrative authority will give public notice of the intent to approve or deny a petition and will provide an opportunity for public comment in accordance with LAC 33:V.Chapter 7.Subchapter C and LAC 33:V.2243. Notice will also be given when a final decision on a petition is issued.

N. The term of an exemption granted under this Section shall be no longer than the term of the final operating permit if the disposal unit is operating under a final operating permit, or up to a maximum of five years from the date of approval if the unit is operating under interim status. In either case, the term of the exemption granted shall expire upon the termination, revocation, or denial of a final operating permit or upon the termination of interim status or when the volume limit of waste to be land disposed during the term of petition is reached. The exemption must be reviewed at least once every three years.

O. During the petition review process, the applicant is required to comply with all prohibitions on land disposal under this Chapter, unless a petition for an exemption has been approved by the EPA, and the administrative authority grants an emergency variance. If EPA has approved the exemption, the land disposal of the waste may continue for up to one year under an emergency variance issued by the administrative authority until the administrative authority makes a decision on the petition for exemption. In no case shall an emergency variance extend beyond one year after the date of issuance. After the administrative authority issues a decision on the exemption, the waste may be land disposed only in accordance with the provisions of the exemption.

P. The petition granted by the administrative authority does not relieve the petitioner from compliance with all other applicable regulations.

Q. Liquid hazardous wastes containing PCBs at concentrations greater than or equal to 50 ppm are not eligible for an exemption under this Section.

R. As a condition of the exemption, the petitioner must submit a report by March 1 of each calendar year during the term of the exemption that describes in detail the efforts undertaken during the preceding calendar year to reduce the volume and toxicity of the waste generated. The report shall provide data indicating the change in volume and toxicity of

waste actually achieved during the year in comparison to previous years.

S. Whenever the administrative authority determines that the basis for approval of a petition may no longer be valid, he or she shall require a new demonstration in accordance with this Section.

T. Termination of an Approved Petition

1. The administrative authority may terminate an exemption granted under this Section for the following causes:

a. noncompliance by the petitioner with any condition of the exemption;

b. the petitioner's failure in the petition or during the review and approval to disclose fully all relevant facts, or the petitioner's misrepresentation of any relevant facts at any time; or

c. a determination that new information shows that the basis for approval of the petition is no longer valid.

2. The administrative authority shall terminate an exemption granted under this Section for the following cause: the petitioner's willful withholding during the review and approval of the petition of facts directly and materially relevant to the administrative authority's decision on the petition.

3. The administrative authority shall follow the procedures in LAC 33:V.323 in terminating any exemption under this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§2245. Generators' Waste Analysis, Recordkeeping, and Notice Requirements

A. Requirements for generators: determine if the waste has to be treated before being land disposed, as follows: A generator of a hazardous waste must determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards in LAC 33:V.2223 or 2230. This determination can be made in either of two ways: testing the waste or using knowledge of the waste. If the generator tests the waste, testing would normally determine the total concentration of hazardous constituents, or the concentration of hazardous constituents in an extract of the waste obtained using Test Method 1311 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110, depending on whether the treatment standard for the waste is expressed as a total concentration or concentration of hazardous constituent in the waste's extract. In addition, some hazardous wastes must be treated by particular treatment methods before they can be land disposed. These treatment standards are also found in LAC 33:V.2223 and are described in detail in Table 3 of this Chapter. These wastes do not need to be tested (however, if they are in a waste mixture, other wastes with concentration level treatment standards would have to be tested). If a

generator determines they are managing a waste that displays a hazardous characteristic of ignitability, corrosivity, reactivity, or toxicity, they must comply with the special requirements of LAC 33:V.2246 in addition to any applicable requirements in this Section.

B. If the waste does not meet the treatment standard, with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste and place a copy in the file. The notice must include the information in column "LAC 33:V.2245.B" of the Generator Paperwork Requirements Table in Subsection D of this Section. No further notification is necessary until such time when the waste or facility changes, in which case a new notification must be sent and a copy placed in the generator's file.

C. If the waste meets the treatment standard at the original point of generation:

1. with the initial shipment of waste to each treatment, storage, or disposal facility, the generator must send a one-time written notice to each treatment, storage, or disposal facility receiving the waste and place a copy in the file. The notice must include the information indicated in column "LAC 33:V.2245.C" of the Generator Paperwork Requirements Table in Subsection D of this Section and the following certification statement, signed by an authorized representative:

"I certify under penalty of law that I personally have examined and

am familiar with the waste through analysis and testing or through knowledge of the waste to support this certification that the waste complies with the treatment standards specified in LAC 33:V.2223 - 2233. I believe that the information I submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting a false certification, including the possibility of a fine and imprisonment";

2. if the waste changes, the generator must send a new notice and certification to the receiving facility and place a copy in their files. Generators of hazardous debris excluded from the definition of hazardous waste under LAC 33:V.109 are not subject to these requirements.

D. For reporting, tracking, and recordkeeping when exceptions allow certain wastes that do not meet the treatment standards to be land disposed, there are certain exemptions from the requirement that hazardous wastes meet treatment standards before they can be land disposed. These include, but are not limited to, case-by-case extensions under LAC 33:V.2239, disposal in a no-migration unit under LAC 33:V.2241, or a national capacity variance or case-by-case capacity variance under LAC 33:V.2209-2221. If a generator's waste is so exempt, then with the initial shipment of waste, the generator must send a one-time written notice to each land disposal facility receiving the waste. The notice must include the information indicated in column "LAC 33:V.2245.D" of the Generator Paperwork Requirements Table in this Subsection. If the waste changes, the generator must send a new notice to the receiving facility and place a copy in their files.

Generator Paperwork Requirements Table

Required Information	LAC 33:V.2245.B	LAC 33:V.2245.C	LAC 33:V.2245.D	LAC 33:V.2245.I
EPA Hazardous Waste and Manifest numbers	X	X	X	X
Statement: This waste is not prohibited from land disposal.			X	
The waste is subject to the LDRs. The constituents of concern for F001-F005 and F039, and underlying hazardous constituents (for wastes that are not managed in a Clean Water Act (CWA) or CWA-equivalent facility), unless the waste will be treated and monitored for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the LDR notice.	X	X		
The notice must include the applicable wastewater/nonwastewater category (see LAC 33:V.2203.A) and subdivisions made within a waste code based on waste-specific criteria (such as D003 reactive cyanide).	X	X		
Waste analysis data (when available).	X	X	X	
Date the waste is subject to the prohibition.			X	
For hazardous debris, when treating with the alternative treatment technologies provided by LAC 33:V.2230: the contaminants subject to treatment, as described in LAC 33:V.2230; and an indication that these contaminants are being treated to comply with LAC 33:V.2230.	X		X	

Required Information	LAC 33:V.2245.B	LAC 33:V.2245.C	LAC 33:V.2245.D	LAC 33:V.2245.I
A certification is needed (see applicable section for exact wording)		X		X

E. If a generator is managing and treating a prohibited waste in tanks, containers, or containment buildings regulated under LAC 33:V.1109.E to meet applicable LDR treatment standards found in LAC 33:V.2223, the generator must develop and follow a written waste analysis plan that describes the procedures the generator will carry out to comply with the treatment standards. (Generators treating hazardous debris under the alternative treatment standards of Table 8 of this Chapter, however, are not subject to these waste analysis requirements.) The plan must be kept on-site in the generator's records, and the following requirements must be met.

1. The waste analysis plan must be based on a detailed chemical and physical analysis of a representative sample of the prohibited waste(s) being treated, and contain all information necessary to treat the waste(s) in accordance with the requirements of this Chapter, including the selected testing frequency.

* * *

[See Prior Text in E.2]

3. Wastes shipped off-site in accordance with this Section must comply with the notification requirements of Subsection C of this Section.

F. If a generator determines that the waste is prohibited solely on the basis of his or her knowledge of the waste, all supporting data used to make this determination must be retained on-site in the generator's files. If a generator determines whether the waste is prohibited on the basis of tests of this waste or an extract developed using the Test Method 1311 described in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110, all waste analysis data must be retained on-site in the generator's files.

G. If a generator determines that a prohibited waste that the generator is managing was excluded from the definition of hazardous or solid waste or exempted from regulation under LAC 33:V.Chapter 1, 39, or 41 subsequent to the point of generation (including deactivated characteristic hazardous wastes managed in wastewater treatment systems subject to the Clean Water Act (CWA) as specified in LAC 33:V.105.D.1.b, or that are CWA-equivalent), the generator must place a one-time notice stating such generation, subsequent exclusion from the definition of hazardous or solid waste or exemption from the regulation under LAC 33:V.Subpart 1, and the disposition of the waste, in the facility's file.

H. Generators must retain on-site a copy of all notices, certifications, demonstrations, waste analysis data, and other documentation produced in accordance with this Section for at least three years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site treatment, storage, or disposal. The three-year record

retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the administrative authority. The requirements of this Paragraph apply to solid wastes even when the hazardous characteristic is removed prior to disposal, or when the waste is excluded from the definition of hazardous or solid waste under LAC 33:V.Chapter 1, 39, or 41, or exempted from regulation under LAC 33:V.Subpart 1, subsequent to the point of generation.

I. If a generator is managing a lab pack that contains hazardous wastes and wishes to use the alternative treatment standard for lab packs found at LAC 33:V.2227.C:

1. with the initial shipment of waste to a treatment facility, the generator must submit a notice that provides the information in column "LAC 33:V.2245.I" in the Generator Paperwork Requirements Table of Subsection D of this Section and the following certification. The certification that must be signed by an authorized representative and must be placed in the generator's files, must say the following:

"I certify under penalty of law that I personally have examined and am familiar with the waste, and that the lab pack contains only wastes that have not been excluded under LAC 33:V.Chapter 22.Table 6, and that this lab pack will be sent to a combustion facility in compliance with the alternative treatment standards for lab packs at LAC 33:V.2227.C. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine or imprisonment";

2. no further notification is necessary until such time that the wastes in the lab pack change or the receiving facility changes, in which case a new notice and certification must be sent and a copy placed in the generator's file;

3. if the lab pack contains characteristic hazardous wastes (D001-D043), underlying hazardous constituents (as defined in LAC 33:V.2203) need not be determined;

4. the generator must also comply with the requirements in Subsections F and G of this Section.

* * *

[See Prior Text in J - K]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 22:1130 (November 1996), LR 23:565 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:

§2246. Special Rules Regarding Wastes That Exhibit a Characteristic

A. The initial generator of a solid waste must determine each EPA Hazardous Waste Number (waste code) applicable to the waste in order to determine the applicable treatment standards under this Chapter. For purposes of this Chapter, the waste will carry the waste code for any applicable listing

under LAC 33:V.4901. In addition, where the waste exhibits a characteristic, the waste will carry one or more of the characteristic waste codes (LAC 33:V.4903), except in the case when the treatment standard for the listed waste operates in lieu of the standard for the characteristic waste, as specified in Subsection B of this Section. If the generator determines that his waste displays a hazardous characteristic (and is not D001 nonwastewaters treated by CMBST, RORGS, or POLYM of Table 3 of this Chapter), the generator must determine the underlying hazardous constituents (as defined in LAC 33:V.2203.A), in the characteristic waste.

* * *

[See Prior Text in B - D.1.a]

b. a description of the waste as initially generated, including the applicable EPA Hazardous Waste Number(s), treatability group(s), and underlying hazardous constituents (as defined in LAC 33:V.2203), unless the waste will be treated and monitored for all underlying hazardous constituents. If all underlying hazardous constituents will be treated and monitored, there is no requirement to list any of the underlying hazardous constituents on the notice.

* * *

[See Prior Text in D.2 - E.3.c]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:

§2247. Owners or Operators of Treatment or Disposal Facilities: Testing, Waste Minimization, Recordkeeping, and Notice Requirements

A. Treatment facilities must test their wastes according to the frequency specified in their waste analysis plans, as required by LAC 33:V.1519 (for permitted TSDs) or 4313 (for interim status facilities). Such testing must be performed as provided in Subsection A.1-2 of this Section:

1. for wastes with treatment standards expressed as concentrations in the waste extract (Toxicity Characteristic Leaching Procedure, TCLP), the owner or operator of the treatment facility must test an extract of the treatment residues, using Test Method 1311 (the TCLP, described in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110), to assure that the treatment residues extract meets the applicable treatment standards;

2. for wastes with treatment standards expressed as concentrations in the waste, the owner or operator of the treatment facility must test the treatment residues (not an extract of such residues) to ensure that they meet the applicable treatment standards.

B. A one-time notice must be sent with the initial shipment of waste to the land disposal facility. A copy of the notice must be placed in the treatment facility's file.

1. No further notification is necessary until such time that the waste or receiving facility changes, in which case a new notice must be sent and a copy placed in the treatment facility's file.

2. The one-time notice must include these requirements:
 - a. EPA Hazardous Waste and Manifest Numbers;
 - b. the waste is subject to the LDRs. The constituents of concern for F001-F005, and F039, and underlying hazardous constituents (for wastes that are not managed in a Clean Water Act (CWA) or CWA-equivalent facility), unless the waste will be treated and monitored for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the LDR notice;
 - c. the notice must include the applicable wastewater/nonwastewater category (see LAC 33:V.2203.A) and subdivisions made within a waste code based on waste-specific criteria (such as D003 reactive cyanide);
 - d. waste analysis data (when available); and
 - e. a certification statement is needed (see applicable section for exact wording).

C. The treatment facility must submit a one-time certification signed by an authorized representative with the initial shipment of waste or treatment residue of a restricted waste to the land disposal facility. The certification must state:

"I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly so as to comply with the treatment standards specified in LAC 33:V.2223 without impermissible dilution of the prohibited waste. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

1. A copy of the certification must be placed in the treatment facility's on-site files. If the waste or treatment residue changes, or the receiving facility changes, a new certification must be sent to the receiving facility, and a copy placed in the file.

2. Debris excluded from the definition of hazardous waste under LAC 33:V.109.Hazardous Waste.6 (i.e., debris treated by an extraction or destruction technology provided by Table 8 of this Chapter, and debris that the administrative authority has determined does not contain hazardous waste), however, is subject to the notification and certification requirements of LAC 33:V.2246.E rather than the certification requirements of this Subsection.

3. For wastes with organic constituents having treatment standards expressed as concentration levels, if compliance with the treatment standards is based in whole or in part on the analytical detection limit alternative specified in LAC 33:V.2223, the certification, signed by an authorized representative, must state the following:

"I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the nonwastewater organic constituents have been treated by incineration in units operated in accordance with LAC 33:V.Chapter 31 or Chapter 43.Subchapter N, or by combustion in fuel substitution units operating in accordance with applicable technical requirements, and combustion units as specified in Table 3 of this Chapter. I have been unable to detect the nonwastewater organic constituents despite having used best good-faith efforts to analyze for such constituents. I am aware that there are significant penalties for submitting a false certification, including the possibility of fines and imprisonment."

* * *

[See Prior Text in D]

E. Where the wastes are recyclable materials used in a manner constituting disposal subject to the provisions in LAC 33:V.4139.A.2-4 regarding treatment standards and prohibition levels, the owner or operator of a treatment facility (the recycler) is not required to notify the receiving facility, in accordance with Subsection C of this Section. With each shipment of such wastes the owner or operator of the recycling facility must submit a certification described in Subsection D of this Section and a notice which includes the information listed in Subsection C of this Section (except the manifest number) to the administrative authority or his delegated representative. The recycling facility also must keep records of the name and location of each entity receiving the hazardous waste-derived product.

F. Except where the owner or operator is disposing of any waste that is a recyclable material used in a manner constituting disposal in accordance with LAC 33:V.4139.A.2-4, the owner or operator of any land disposal facility disposing of any waste subject to prohibitions under this Chapter must do the following:

1. he must have copies of the notice and certification specified in either Subsection B, C, D, or E of this Section; and

2. he must test the waste or an extract of the waste or treatment residue developed using Test Method 1311 (the Toxicity Characteristic Leaching Procedure, described in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110) to ensure that the wastes or treatment residues comply with the applicable treatment standards set forth in LAC 33:V.2223-2233. Such testing must be performed according to the frequency specified in the facility's waste analysis plan, as required by LAC 33:V.1519 or 4313.

* * *

[See Prior Text in G-H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 23:566 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:670 (April 1998), LR 24:

Table 2 - TREATMENT STANDARDS FOR HAZARDOUS WASTES

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
		Common Name	CAS ² Number	Concentration in mg/l ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/l TCLP" or Technology Code ⁴
D001 ⁹	Ignitable Characteristic Waste, except for the LAC 33:V.4903.B.1 High TOC Subcategory.	NA	NA	DEACT and meet LAC 33:V.2233 standards ⁸ ; or RORGS; or CMBST	DEACT and meet LAC 33:V.2233 standards ⁸ ; or RORGS; or CMBST
	High TOC Ignitable Characteristic Liquids Subcategory based on LAC 33:V.4903.B.1 - Greater than or equal to 10 percent total organic carbon. (Note: This subcategory consists of nonwastewaters only.)	NA	NA	NA	RORGS; or CMBST; or POLYM
* * *					
[See Prior Text in D002 -F028]					

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
		Common Name	CAS ² Number	Concentration in mg/l ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/l TCLP" or Technology Code ⁴
F024	Process wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor clean-out wastes, from the production of certain chlorinated aliphatic hydrocarbons by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. (This listing does not include wastewaters, wastewater treatment sludges, spent catalysts, and wastes listed in LAC 33:V.4901.C or LAC 33:V.4901.B.Table 1.).	All F024 wastes	NA	CMBST ¹¹	CMBST ¹¹
		2-Chloro-1,3-butadiene	126-99-8	0.057	0.28
		3-Chloropropylene	107-05-1	0.036	30
		1,1-Dichloroethane	75-34-3	0.059	6.0
		1,2-Dichloroethane	107-06-2	0.21	6.0
		1,2-Dichloropropane	78-87-5	0.85	18
		cis-1,3-Dichloropropylene	10061-01-5	0.036	18
		trans-1,3-Dichloropropylene	10061-02-6	0.036	18
		bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
		Hexachloroethane	67-72-1	0.055	30
		Chromium (Total)	7440-47-3	2.77	0.86 mg/l TCLP
		Nickel	7440-02-0	3.98	5.0 mg/l TCLP
		* * *			
[See Prior Text in F025]					

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
		Common Name	CAS ² Number	Concentration in mg/l ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/l TCLP" or Technology Code ⁴
F032	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that currently use or have previously used chlorophenolic formulations (except potentially cross-contaminated wastes that have had the F032 waste code deleted in accordance with LAC 33:V.4901.B.3 or potentially cross-contaminated wastes that are otherwise currently regulated as hazardous wastes (i.e., F034 or F035), and where the generator does not resume or initiate use of chlorophenolic formulations). This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol.	Acenaphthene	83-32-9	0.059	3.4
		Anthracene	120-12-7	0.059	3.4
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benz(a)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		2,4-Dimethylphenol	105-67-9	0.036	14
		Fluorene	86-73-7	0.059	3.4
		Hexachlorodibenzo-p-dioxins	NA	0.000063, or CMBST ¹¹	0.001, or CMBST ¹¹
		Hexachlorodibenzofurans	NA	0.000063, or CMBST ¹¹	0.001, or CMBST ¹¹
		Indeno (1,2,3-c,d) pyrene	193-39-5	0.0055	3.4
		Naphthalene	91-20-3	0.059	5.6
		Pentachlorodibenzo-p-dioxins	NA	0.000063, or CMBST ¹¹	0.001, or CMBST ¹¹
		Pentachlorodibenzofurans	NA	0.000035, or CMBST ¹¹	0.001, or CMBST ¹¹
		Pentachlorophenol	87-86-5	0.089	7.4
		Phenanthrene	85-01-8	0.059	5.6
		Phenol	1089-5-2	0.039	6.2
		Pyrene	129-00-0	0.067	8.2
		Tetrachlorodibenzo-p-dioxins	NA	0.000063, or CMBST ¹¹	0.001, or CMBST ¹¹
		Tetrachlorodibenzofurans	NA	0.000063, or CMBST ¹¹	0.001, or CMBST ¹¹
		2,3,4,6-Tetrachlorophenol	58-90-2	0.030	7.4
2,4,6-Trichlorophenol	88-06-2	0.035	7.4		
Arsenic	7440-38-2	1.4	5.0 mg/l TCLP		
Chromium (Total)	7440-47-3	2.77	0.86 mg/l TCLP		

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
		Common Name	CAS ² Number	Concentration in mg/l ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/l TCLP" or Technology Code ⁴
F034	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use creosote formulations. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol.	Acenaphthene	83-32-9	0.059	3.4
		Anthracene	120-12-7	0.059	3.4
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benz(a)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		Fluorene	86-73-7	0.059	3.4
		Indeno (1,2,3-c,d) pyrene	193-39-5	0.0055	3.4
		Naphthalene	91-20-3	0.059	5.6
		Phenanthrene	85-01-8	0.059	5.6
		Pyrene	129-00-0	0.067	8.2
		Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.86 mg/l TCLP
F035	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use inorganic preservatives containing arsenic or chromium. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol.	Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.86 mg/l TCLP
* * *					
[See Prior Text F037-K151]					

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
		Common Name	CAS ² Number	Concentration in mg/l ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/l TCLP" or Technology Code ⁴
K156	Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.) ¹⁰	Acetonitrile	75-05-8	5.6	38
		Acetophenone	96-86-2	0.010	9.7
		Aniline	62-53-3	0.81	14
		Benomyl	17804-35-2	0.056	1.4
		Benzene	71-43-2	0.14	10
		Carbaryl	63-25-2	0.006	0.14
		Carbenzadim	10605-21-7	0.056	1.4
		Carbofuran	1563-66-2	0.006	0.14
		Carbosulfan	55285-14-8	0.028	1.4
		Chlorobenzene	108-90-7	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		o-Dichlorobenzene	95-50-1	0.088	6.0
		Methomyl	16752-77-5	0.028	0.14
		Methylene chloride	75-09-2	0.089	30
		Methyl ethyl ketone	78-93-3	0.28	36
		Naphthalene	91-20-3	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Pyridine	110-86-1	0.014	16
Toluene	108-88-3	0.080	10		
Triethylamine	121-44-8	0.081	1.5		

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
		Common Name	CAS ² Number	Concentration in mg/l ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/l TCLP" or Technology Code ⁴
K157	Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.) ¹⁰	Carbon tetrachloride	56-23-5	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		Chloromethane	74-87-3	0.19	30
		Methomyl	16752-77-5	0.028	0.14
		Methylene chloride	75-09-2	0.089	30
		Methyl ethyl ketone	78-93-3	0.28	36
		o-Phenylenediamine	95-54-5	0.056	5.6
		Pyridine	110-86-1	0.014	16
K158	Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.) ¹⁰	Triethylamine	121-44-8	0.081	1.5
		Benomyl	17804-35-2	0.056	14
		Benzene	71-43-2	0.14	10
		Carbenzadim	10605-21-7	0.056	1.4
		Carbofuran	1563-66-2	0.006	0.14
		Carbosulfan	55285-14-8	0.028	1.4
		Chloroform	67-66-3	0.046	6.0
		Methylene chloride	75-09-2	0.089	30
	Phenol	108-95-2	0.039	6.2	

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
		Common Name	CAS ² Number	Concentration in mg/l ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/l TCLP" or Technology Code ⁴
* * *					
[See Prior Text in K159 -U411]					

* * *

[See Prior Text in Notes 1-10]

11 For these wastes, the definition of CMBST is limited to: (1) combustion units operating under LAC 33:V.Chapter 30, (2) combustion units permitted under LAC 33:V.Chapter 31, or (3) combustion units operating under LAC 33:V.Chapter 43.Subchapter N, which have obtained a determination of equivalent treatment under LAC 33.V.2227.B.

NOTE: NA means not applicable.

Technology Code	Description of Technology-Based Standard
	* * * [See Prior Text in ADGAS -CHRED]
CMBST	High temperature organic destruction technologies, such as combustion in incinerators, boilers, or industrial furnaces operated in accordance with the applicable requirements of LAC 33:V.Chapter 30 or 31 or 41, and 43.Subchapter N, and in other units operated in accordance with applicable technical operating requirements; and certain non-combustive technologies, such as the Catalytic Extraction Process.
	* * * [See Prior Text in DEACT -NLDBR]
POLYM	Formation of complex high-molecular weight solids through polymerization of monomers in high-TOC D001 nonwastewaters that are chemical components in the manufacture of plastics.
	* * * [See Prior Text in PRECP - WTRRX]

Note 1: When a combination of these technologies (i.e., a treatment train) is specified as a single treatment standard, the order of application is specified in Table 2 by indicating the five-letter technology code that must be applied first, then the designation "f" (an abbreviation for "followed by"), then the five-letter technology code for the technology that must be applied next, and so on.

Note 2: When two or more technologies (or treatment trains) are specified as alternative treatment standards, the five-letter technology codes (or the treatment trains) are separated by a semicolon (;) with the last technology preceded by the word "or." This indicates that any one of these BDAT technologies or treatment trains can be used for compliance with the standard.

* * *

[See Prior Text in Table 4]

**Table 5
Metal Bearing Wastes Prohibited From Dilution in a Combustion Unit¹ According to
LAC 33:V.2207.C.1**

Waste Code	Waste Description
D004	Toxicity Characteristic for Arsenic
D005	Toxicity Characteristic for Barium
D006	Toxicity Characteristic for Cadmium
D007	Toxicity Characteristic for Chromium
D008	Toxicity Characteristic for Lead

Waste Code	Waste Description
D009	Toxicity Characteristic for Mercury
D010	Toxicity Characteristic for Selenium
D011	Toxicity Characteristic for Silver
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum
F007	Spent cyanide plating bath solutions from electroplating operations
F008	Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process
F010	Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations
F012	Quenching wastewater treatment sludges from metal heat treating operations where cyanides are used in the process
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process
K002	Wastewater treatment sludge from the production of chrome yellow and orange pigments
K003	Wastewater treatment sludge from the production of molybdate orange pigments
K004	Wastewater treatment sludge from the production of zinc yellow pigments
K005	Wastewater treatment sludge from the production of chrome green pigments
K006	Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated)
K007	Wastewater treatment sludge from the production of iron blue pigments
K008	Oven residue from the production of chrome oxide green pigments
K061	Emission control dust/sludge from the primary production of steel in electric furnaces
K069	Emission control dust/sludge from secondary lead smelting
K071	Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used
K100	Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting
K106	Sludges from the mercury cell processes for making chlorine
P010	Arsenic acid H_3AsO_4
P011	Arsenic oxide As_2O_5
P012	Arsenic trioxide
P013	Barium cyanide
P015	Beryllium
P029	Copper cyanide $Cu(CN)$
P074	Nickel cyanide $Ni(CN)_2$
P087	Osmium tetroxide
P099	Potassium silver cyanide
P104	Silver cyanide
P113	Thallic oxide

Waste Code	Waste Description
P114	Thallium (I) selenite
P115	Thallium (I) sulfate
P119	Amonium vanadate
P120	Vanadium oxide V ₂ O ₅
P121	Zinc cyanide
U032	Calcium chromate
U145	Lead phosphate
U151	Mercury
U204	Selenious acid
U205	Selenium disulfide
U216	Thallium (I) chloride
U217	Thallium (I) nitrate

¹ A combustion unit is defined as any thermal technology subject to LAC 33:V.Chapter 30 or Chapter 31 and Chapter 43.Subchapter N.

* * *

[See Prior Text in Tables 6-9]

Table 10. Wastes Excluded from the Treatment Standards under LAC 33:V.2223					
Facility Name ¹ and Address	Waste Code	See also	Regulated Hazardous Constituent	Wastewaters	Nonwastewaters
				Concentration (mg/l) (Notes)	Concentration (mg/Kg) (Notes)
Craftsman Plating and Tinning Corp. Chicago, IL	F006	Table 2	Cyanides (Total)	1.2 ⁽²⁾	1800 ⁽⁴⁾
			Cyanides (amenable)	0.86 ^(2 and 3)	30 ⁽⁴⁾
			Cadmium	1.6	NA
			Chromium	0.32	NA
			Lead	0.040	NA
			Nickel	0.44	NA
Northwestern Plating Works, Inc. Chicago, IL	F006	Table 2	Cyanides (Total)	1.2 ^(2 and 3)	970 ⁽⁴⁾
			Cyanides (amenable)	0.86 ⁽²⁾	30 ⁽⁴⁾
			Cadmium	1.6	NA
			Chromium	0.32	NA
			Lead	0.040	NA
			Nickel	0.44	NA

⁽¹⁾—A facility may certify compliance with these treatment standards according to provisions in LAC 33:V.2245 and 2247.

⁽²⁾—Cyanide Wastewater Standards for F006 are based on analysis of composite samples.

⁽³⁾—These facilities must comply with 0.86 mg/l for amenable cyanides in the wastewater exiting the alkaline chlorination system. These facilities must also comply with LAC 33:V.2245.D for appropriate monitoring frequency consistent with the facilities' waste analysis plan.

⁽⁴⁾—Cyanide nonwastewaters are analyzed using SW-846 Method 9010 or 9012, sample size 10 grams, distillation time, 1 hour and 15 minutes.

Note: NA means Not Applicable.

* * *

[See Prior Text in Table 12]

Chapter 24. Hazardous Waste Munitions and Explosives Storage

§2401. Applicability

The requirements of this Chapter apply to owners or operators who store munitions and explosive hazardous wastes, except as LAC 33:V.1501 provides otherwise.

[NOTE: Depending on explosive hazards, hazardous waste munitions and explosives may also be managed in other types of storage units, including containment buildings (LAC 33:V.Chapter 18), tanks (LAC 33:V.Chapter 19), or containers (LAC 33:V.Chapter 21). See LAC 33:V.5309 for storage of waste military munitions.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24.

§2403. Design and Operating Standards

A. Hazardous waste munitions and explosives storage units must be designed and operated with containment systems, controls, and monitoring that:

1. minimize the potential for detonation or other means of release of hazardous waste, hazardous constituents, hazardous decomposition products, or contaminated runoff to the soil, groundwater, surface water, and atmosphere;

2. provide a primary barrier, which may be a container (including a shell) or tank, designed to contain the hazardous waste;

3. for wastes stored outdoors, provide that the waste and containers will not be in standing precipitation;

4. for liquid wastes, provide a secondary containment system that assures that any released liquids are contained and promptly detected and removed from the waste area or vapor detection system that assures that any released liquids or vapors are promptly detected and an appropriate response taken (e.g., additional containment, such as overpacking or removal from the waste area); and

5. provide monitoring and inspection procedures that assure the controls and containment systems are working as designed and that releases that may adversely impact human health or the environment are not escaping from the unit.

B. Hazardous waste munitions and explosives stored under this Chapter may be stored in one of the following:

1. earth-covered magazines, must be:

- a. constructed of waterproofed, reinforced concrete or structural steel arches, with steel doors that are kept closed when not being accessed;

- b. designed and constructed as follows:

- i. to be of sufficient strength and thickness to support the weight of any explosives or munitions stored and any equipment used in the unit;

- ii. to provide working space for personnel and equipment in the unit; and

- iii. to withstand movement activities that occur in the unit; and

- c. located and designed, with walls and earthen covers that direct an explosion in the unit in a safe direction, so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion;

2. above-ground magazines must be located and designed so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion;

3. outdoor or open storage areas must be located and designed so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion.

C. Hazardous waste munitions and explosives must be stored in accordance with a standard operating procedure specifying procedures to ensure safety, security, and environmental protection. If these procedures serve the same purpose as the security and inspection requirements of LAC 33:V.1507, the preparedness and prevention procedures of LAC 33:V.1511, and the contingency plan and emergency procedures requirements of LAC 33:V.1513, then these procedures will be used to fulfill those requirements.

D. Hazardous waste munitions and explosives must be packaged to ensure safety in handling and storage.

E. Hazardous waste munitions and explosives must be inventoried at least annually.

F. Hazardous waste munitions and explosives and their storage units must be inspected and monitored as necessary to ensure the explosives' safety and to ensure that there is no migration of contaminants out of the unit.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§2405. Closure and Post-Closure Care

A. At closure of a magazine or unit that stored hazardous waste under this Chapter, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components, contaminated subsoils, and structures and equipment contaminated with waste and manage them as hazardous waste unless LAC 33:V.109.Hazardous Waste.6 applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for magazines or units must meet all of the requirements specified in LAC 33:V.Chapters 35 and 37, except that the owner or operator may defer closure of the unit as long as it remains in service as a munitions or explosives magazine or storage unit.

B. If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in Subsection A of this Section, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he or she must close the facility and perform post-closure care in accordance with the closure and post-closure requirements that apply to landfills (LAC 33:V.2521).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

Chapter 25. Landfills

§2511. Special Requirements for Ignitable or Reactive Waste

A. Except as provided in LAC 33:V.2511.B and 2519, ignitable or reactive waste must not be placed in a landfill, unless the waste and landfill meet all applicable requirements of LAC 33:V.Chapter 22, and:

* * *

[See Prior Text in A.1]

2. LAC 33:V.1517.B is complied with.

* * *

[See Prior Text in B - B.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:1057 (December 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

Chapter 29. Surface Impoundments

2919. Air Emission Standards

The owner or operator shall manage all hazardous waste placed in a surface impoundment in accordance with the applicable requirements of LAC 33:V.Chapter 17.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3007. Interim Status Standards for Burners

* * *

[See Prior Text in A-B.9]

C. Certification of Compliance. The owner or operator shall conduct emissions testing to document compliance with the emissions standards of Subsection A.5.a.iv of this Section and LAC 33:V.3009.B-E, 3011, 3013, and 3015, under the procedures prescribed by this Subsection, except under extensions of time provided by Subsection C.7 of this Section. Based on the compliance test, the owner or operator shall submit to the administrative authority, on or before August 21, 1992, a complete and accurate "certification of compliance" (under LAC 33:V.3007.C.4) with those emission standards establishing limits on the operating parameters specified in LAC 33:V.3007.C.1.

* * *

[See Prior Text in C.1 - L]

[Note: Parts of this Section were previously promulgated in LAC 33:V.4142 which has been repealed.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:822 (September 1996), LR 24:

§3009. Standards to Control Organic Emissions

A boiler or industrial furnace burning hazardous waste must be designed, constructed, and maintained so that, when operated in accordance with operating requirements specified under LAC 33:V.3005.E, it will meet the following standards:

* * *

[See Prior Text in A-E]

1. during the trial burn (for new facilities or an interim status facility applying for a permit) or compliance test (for interim status facilities), determine emission rates of the tetra-octa congeners of chlorinated dibenzo-p-dioxins and dibenzofurans (CDDs/CDFs) using Method 0023A, Sampling

Method for Polychlorinated Dibenzop-Dioxins and Polychlorinated Dibenzofurans Emissions from Stationary Sources, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110;

* * *

[See Prior Text in E.2 - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:823 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§3013. Standards to Control Metals Emissions

* * *

[See Prior Text in A-F.2.b.ii]

G. Metal Emission Testing

1. General. Emission testing for metals shall be conducted using Method 0060, Determinations of Metals in Stack Emissions, EPA Publication SW-846, as incorporated by reference in LAC:33.V.110.

2. Hexavalent Chromium. Emissions of chromium are assumed to be hexavalent chromium unless the owner or operator conducts emissions testing to determine hexavalent chromium emissions using procedures prescribed in Method 0061, Determination of Hexavalent Chromium Emissions from Stationary Sources, EPA Publication SW-846, as incorporated by reference in LAC:33.V.110.

* * *

[See Prior Text in H - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:824 (September 1996), repromulgated LR 22:980 (October 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§3015. Standards to Control Hydrogen Chloride (HCl) and Chlorine Gas (Cl₂) Emissions

* * *

[See Prior Text in A-E]

F. Emissions Testing. Emissions testing for HCl and Cl₂ shall be conducted using the procedures described in 40 CFR 266, appendix IX, as adopted and amended in Methods 0050 or 0051, EPA Publication SW-846, as incorporated by reference in LAC 33:V:110.

* * *

[See Prior Text in G-H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:825 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

Chapter 31. Incinerators

§3105. Applicability

* * *

[See Prior Text in A-D]

E. The owner or operator of an incinerator may conduct trial burns subject only to the requirements of LAC 33:V.3115.

Table 1. Hazardous Constituents			
Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
* * * [See Prior Text in A2213 -Potassium dimethyldithiocarbamate]			
Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
Potassium n-hydroxymethyl-n-methyl-dithiocarbamate	Carbamodithioic acid, (hydroxymethyl)methyl-, monopotassium salt	51026-28-9	U378
* * * [See Prior Text in Potassium n-methyldithiocarbamate -TCDD]			
Tetrabutylthiuram disulfide	Thioperoxydicarbonic diamide, tetrabutyl	1634-02-2	U402
1,2,4,5-Tetrachloro-benzene	Benzene, 1,2,4,5- tetrachloro-	95-94-3	U207
* * * [See Prior Text in Tetrachlorodibenzo-p-dioxins -Ziram]			

¹ The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this table.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:318 (February 1998), LR 24:681 (April 1998), LR 24:

Chapter 32. Miscellaneous Units

§3203. Environmental Performance Standards

A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain such terms and provisions as necessary to protect human health and the environment including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of hazardous waste or hazardous constituents from the unit. Permit terms and provisions shall include those requirements of LAC 33:V.Chapters 17, 19, 21, 23, 25, 27, 29, 31, and all other applicable requirements of LAC 33:V.Subpart 1, and of 40 CFR 146, 1988, pp. 674-694, which are appropriate for the miscellaneous unit being permitted. Protection of human health and the environment includes, but is not limited to:

* * *

[See Prior Text in A-C.7]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:399 (May 1990), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

Chapter 33. Groundwater Protection

§3325. Groundwater Monitoring List¹

Table 4 lists groundwater monitoring constituents.

* * *

[See Prior Text in Table 4 - Note 4]

⁵ Suggested Methods refer to analytical procedure numbers used in EPA Report SW-846, *Test Methods for Evaluating Solid Waste*, Third Edition. Analytical details can be found in SW-846 and in documentation on file at the agency. The packed column gas chromatography methods 8010, 8020, 8030, 8040, 8060, 8080, 8090, 8110, 8120, 8140, 8150, 8240, and 8250 were promulgated methods through Update IIB of SW-846 and, as of Update III, the agency has replaced these methods with "capillary column GC methods," as the suggested methods. Caution: The methods listed are representative SW-846 procedures and may not always be the most suitable method(s) for monitoring an analyte under the regulations.

* * *

[See Prior Text in Notes 6-9]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:399 (May 1990), amended LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

Chapter 35. Closure and Post-Closure

§3501. Applicability

* * *

[See Prior Text in A-C.1]

2. waste piles, surface impoundments, or any facility from which the owner or operator intends to remove waste at closure, to the extent that these sections are made applicable to such facilities in LAC 33:V.2315 and 2911;

* * *

[See Prior Text in C.3-4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998), LR 24:

Chapter 41. Recyclable Materials

§4105. Requirements for Recyclable Material

Recyclable materials are subject to additional regulations as follows:

* * *

[See Prior Text in A-B.3]

4. scrap metal that is not excluded under LAC 33:V.105.D.1.m;

* * *

[See Prior Text in B.5-F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:219 (March 1990), LR 17:362 (April 1991), repromulgated LR 18:1256 (November 1992), amended LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), LR 23:579 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:685 (April 1998), LR 24:1108 (June 1998), LR 24:

Subchapter C. Special Requirements for Group III Recyclable Materials

§4137. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:433 (August 1987), LR 20:1000 (September 1994), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:

§4139. Recyclable Materials Used in a Manner Constituting Disposal

* * *

[See Prior Text in A-A.5]

B. General Requirements

1. Generators and transporters of materials that are used in a manner that constitutes disposal are subject to all the requirements of LAC 33:V.Chapters 11 and 13, and LAC 33:V.105.A of these regulations, and the notification

requirement under section 3010 of RCRA.

2. Owners and operators of facilities that store recyclable materials that are to be used in a manner that constitutes disposal but who are not the ultimate users of the materials are regulated under all applicable provisions of LAC 33:V.Chapters 3, 5, 7, 9, 11, 15, 19, 21, 23, 29, 33, 35, 37; Subchapters A-L of Chapter 43; and the notification requirement under section 3010 of RCRA.

3. Owners and operators of facilities that use recyclable materials in a manner that constitutes disposal are regulated under all applicable provisions of LAC 33:V.Chapters 3, 5, 7, 9, 11, 15, 19, 21, 22, 23, 25, 27, 29, 31, 33, 35, 37; Subchapters A-M of Chapter 43; and the notification requirement under section 3010 of RCRA. (These requirements do not apply to products which contain these recyclable materials under the provisions of LAC 33:V.4139.A.2.)

4. The use of waste or used oil or other material that is contaminated with dioxin or any other hazardous waste (other than a waste identified solely on the basis of ignitability) for dust suppression or road treatment is prohibited.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:367 (April 1991), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 22:21 (January 1996), repromulgated LR 22:100 (February 1996), amended LR 23:566 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

Chapter 43. Interim Status

§4301. Purpose and Applicability

* * *

[See Prior Text in A-D]

E. Interim status facilities must comply with LAC 33:V.Chapters 3, 5, 9, 11, 15, 39, 41, 43, and 49. The requirements of this Chapter apply to owners or operators of all facilities which treat, store, or dispose of hazardous waste referred to in LAC 33:V.Chapter 22, and Chapter 22 standards are material conditions or requirements of interim status standards.

* * *

[See Prior Text in F-I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

Subchapter A. General Facility Standards

§4313. General Waste Analysis

* * *

[See Prior Text in A-E.5]

6. where applicable, the methods that will be used to meet the additional waste analysis requirements for specific waste management methods as specified in LAC 33:V.2245,

2247, 4445, 4453, 4467, 4481, 4507, 4515, 4527, 4539, 4557, 4585, and 4727;

* * *

[See Prior Text in E.7-7.c.ii.(a)]

(b). such residues are prohibited from land disposal under LAC 33:V.Chapter 22; and

8. for owners and operators seeking an exemption to the air emission standards of Subchapter V of this Chapter in accordance with LAC 33:V.4725:

a. if direct measurement is used for the waste determination, the procedures and schedules for waste sampling and analysis, and the results of the analysis of test data to verify the exemption; and

b. if knowledge of the waste is used for the waste determination, any information prepared by the facility owner or operator or by the generator of the hazardous waste, if the waste is received from off-site, that is used as the basis for knowledge of the waste.

* * *

[See Prior Text in F-F.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:1057 (December 1990), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§4317. General Inspection Requirements

* * *

[See Prior Text in A-B.2]

3. The frequency of inspection may vary for the items on the schedule. However, it should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the items and frequencies called for in LAC 33:V.4425, 4437, 4440, 4455, 4470, 4485, 4502, 4519, 4529, 4541, 4555, 4565, 4567, 4577, and 4737, where applicable.

* * *

[See Prior Text in C-D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

Subchapter D. Manifest System, Recordkeeping, and Reporting

§4357. Operating Record

* * *

[See Prior Text in A-B.4. Table 2]

5. records and results of waste analyses and trial tests performed as specified in LAC 33:V.2237.A, 2245, 4313, 4445, 4453, 4467, 4481, 4507, 4515, 4527, 4539, 4557, and 4727;

* * *

[See Prior Text in B.6-7]

8. monitoring, testing, or analytical data, and corrective action when required by LAC 33:V.Chapter 43.Subchapter E, 4320, 4367, 4375, 4433, 4437, 4440, 4449, 4451, 4455, 4470, 4472, 4474, 4483, 4485, 4489.D.1, 4497-4502, 4519, 4529, 4557, 4559, 4587, 4589, 4737, and 4739;

[Comment: As required by LAC 33:V.4375, monitoring data at disposal facilities must be kept throughout the post-closure period.]

* * *

[See Prior Text in B.9]

10. records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal prohibition granted in accordance with LAC 33:V.2239, monitoring data required in accordance with a petition under LAC 33:V.2241 or 2271 or a certification under LAC 33:V.2235, and the applicable notice required of a generator under LAC 33:V.2245;

11. for an off-site treatment facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.2245 or 2247;

12. for an on-site treatment facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required by the generator or the owner or operator under LAC 33:V.2245 or 2247;

13. for an off-site land disposal facility, a copy of the notice and the certification and demonstration, if applicable, required by the generator or the owner or operator of a treatment facility under LAC 33:V.2245 or 2247;

14. for an on-site land disposal facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required by the generator or the owner or operator of a treatment facility under LAC 33:V.2245 or 2247;

15. for an off-site storage facility, a copy of the notice and the certification and demonstration, if applicable, required by the generator or the owner or operator under LAC 33:V.2245 or 2247;

16. for an on-site storage facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required by the generator or the owner or operator of a treatment facility under LAC 33:V.2245 or 2247.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

§4365. Additional Reports

In addition to submitting the biennial report and unmanifested waste reports described in LAC 33:V.4361 and 4363, the owner or operator must also report to the administrative authority:

* * *

[See Prior Text in A-C]

D. as otherwise required by LAC 33:V.Chapter 43, Subchapters Q, R, and V.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 17:658 (July 1991), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

Subchapter F. Closure and Post-Closure
§4379. Closure Performance Standard

The owner or operator must close his facility in a manner that:

* * *

[See Prior Text in A-B]

C. complies with the closure requirements of these regulations including, but not limited to, LAC 33:V.4442, 4457, 4475, 4489, 4501, 4521, 4531, and 4543.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 15:181 (March 1989), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

Subchapter H. Containers
§4430. Air Emission Standards

The owner or operator shall manage all hazardous waste placed in a container in accordance with the applicable requirements of Subchapters Q, R, and V of this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

Subchapter I. Tanks
§4446. Air Emission Standards

The owner or operator shall manage all hazardous waste placed in a tank in accordance with the applicable requirements of Subchapters Q, R, and V of this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

Subchapter J. Surface Impoundments
§4456. Air Emission Standards

The owner or operator shall manage all hazardous waste placed in a surface impoundment in accordance with the applicable requirements of Subchapters R and V of this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

Subchapter M. Landfills
§4511. Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs)

Lab packs may be placed in a landfill if the following requirements are met:

* * *

[See Prior Text in A-E]

F. Such disposal is in compliance with the requirements of LAC 33:V.Chapter 22. Persons who incinerate lab packs according to the requirements in LAC 33:V.2227.C.1 may use fiber drums in place of metal outer containers. Such fiber drums must meet the specifications of the Louisiana Department of Public Safety and Corrections or its successor agency in LAC 33:V.Subpart 2, Chapter 101, the DOT specifications in 49 CFR 173.12, and be overpacked according to the requirements in Subsection B of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:1057 (December 1990), LR 18:723 (July 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

Subchapter Q. Air Emission Standards for Process Vents
§4549. Applicability

* * *

[See Prior Text in A]

B. Except for LAC 33:V.1711.D and E, as referenced in LAC 33:V.4557, this Subchapter applies to process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations that manage hazardous wastes with organic concentrations of at least 10 ppmw, if these operations are conducted in one of the following:

1. a unit that is subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 27, 31, and 43;
2. a unit (including a hazardous waste recycling unit) that is not exempt from permitting under LAC 33:V.1109.E.1 (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 27, 31, and 43; or
3. a unit that is exempt from permitting under the provisions of LAC 33:V.1109.E.1 (i.e., a 90-day tank or container).

[Note: The requirements of LAC 33:V.4553-4559 apply to process vents on hazardous waste recycling units previously exempt under LAC 33:V.4115.A. Other exemptions under LAC 33:V.105.D and 4307 are not affected by these requirements.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 18:723 (July 1992), LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

Subchapter R. Air Emission Standards for Equipment Leaks
§4561. Applicability

* * *

[See Prior Text in A]

B. Except as provided in LAC 33:V.1743.K, as referenced in LAC 33:V.4509, this Subchapter applies to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are

managed in one of the following:

1. a unit that is subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 27, 31, and 43;
2. a unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of LAC 33:V.1109.E.1 (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 27, 31, and 43; or
3. a unit that is exempt from permitting under the provisions of LAC 33:V.1109.E.1 (i.e., a 90-day tank or container).

* * *

[See Prior Text in C-D]

E. Equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for a period of less than 300 hours per calendar year is excluded from the requirements of LAC 33:V.4565 and 4581 if it is identified as required in LAC 33:V.4589.

[Note: The requirements of LAC 33:V.4565-4589 apply to equipment associated with hazardous waste recycling units previously exempt under LAC 33:V.4115.A. Other exemptions under LAC 33:V.105.D and 4307 are not affected by these requirements.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

Subchapter U. Hazardous Waste Munitions and Explosives Storage

§4707. Applicability

The requirements of this Subchapter apply to owners or operators who store munitions and explosive hazardous wastes, except as LAC 33:V.4301 provides otherwise.

[NOTE: Depending on explosive hazards, hazardous waste munitions and explosives may also be managed in other types of storage units, including containment buildings (Subchapter T of this Chapter), tanks (Subchapter I of this Chapter), or containers (Subchapter H of this Chapter). See LAC 33:V.5311 for storage of waste military munitions].

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§4709. Design and Operating Standards

A. Hazardous waste munitions and explosives storage units must be designed and operated with containment systems, controls, and monitoring that:

1. minimize the potential for detonation or other means of release of hazardous waste, hazardous constituents, hazardous decomposition products, or contaminated runoff to the soil, groundwater, surface water, and atmosphere;
2. provide a primary barrier, which may be a container (including a shell) or tank, designed to contain the hazardous waste;
3. for wastes stored outdoors, provide that the waste and containers will not be in standing precipitation;

4. for liquid wastes, provide a secondary containment system that assures that any released liquids are contained and promptly detected and removed from the waste area or vapor detection system that assures that any released liquids or vapors are promptly detected and an appropriate response taken (e.g., additional containment, such as overpacking or removal from the waste area); and

5. provide monitoring and inspection procedures that assure the controls and containment systems are working as designed and that releases that may adversely impact human health or the environment are not escaping from the unit.

B. Hazardous waste munitions and explosives stored under this Subchapter may be stored in one of the following:

1. earth-covered magazines that must be:
 - a. constructed of waterproofed, reinforced concrete, or structural steel arches, with steel doors that are kept closed when not being accessed;
 - b. designed and constructed:
 - i. to be of sufficient strength and thickness to support the weight of any explosives or munitions stored and any equipment used in the unit;
 - ii. to provide working space for personnel and equipment in the unit; and
 - iii. to withstand movement activities that occur in the unit; and
 - c. located and designed with walls and earthen covers that direct an explosion in the unit in a safe direction, so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion;
2. above-ground magazines that must be located and designed so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion; or
3. outdoor or open storage areas that must be located and designed so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion.

C. Hazardous waste munitions and explosives must be stored in accordance with a standard operating procedure specifying procedures to ensure safety, security, and environmental protection. If these procedures serve the same purpose as the security and inspection requirements of LAC 33:V.4315, the preparedness and prevention procedures of Subchapter B of this Chapter, and the contingency plan and emergency procedures requirements of Subchapter C of this Chapter, then these procedures will be used to fulfill those requirements.

D. Hazardous waste munitions and explosives must be packaged to ensure safety in handling and storage.

E. Hazardous waste munitions and explosives must be inventoried at least annually.

F. Hazardous waste munitions and explosives and their storage units must be inspected and monitored as necessary to ensure explosives safety and to ensure that there is no migration of contaminants out of the unit.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§4711. Closure and Post-Closure Care

A. At closure of a magazine or unit that stored hazardous waste under this Subchapter, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components, contaminated subsoils, and structures and equipment contaminated with waste and manage them as hazardous waste unless LAC 33:V.109.Hazardous Waste.6 applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for magazines or units must meet all of the requirements specified in Subchapters F and G of this Chapter, except that the owner or operator may defer closure of the unit as long as it remains in service as a munitions or explosives magazine or storage unit.

B. If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in Subsection A of this Section, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he or she must close the facility and perform post-closure care in accordance with the closure and post-closure requirements that apply to landfills (LAC 33:V.2521).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

Subchapter V. Air Emission Standards for Tanks, Surface Impoundments, and Containers

§4719. Applicability

Interim status facilities are subject to the requirements of LAC 33:V.1747.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§4721. Definitions

As used in this Subchapter, all terms shall have the meanings given to them in LAC 33:V.1703.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§4723. Schedule for Implementation of Air Emission Standards

A. Owners or operators of facilities existing on September 20, 1998, and subject to Subchapters H, I, and J of this Chapter shall meet the following requirements:

1. install and begin operation of all control equipment required by this Subchapter by September 20, 1998, except as provided for in Subsection A.2 of this Section;

2. when control equipment required by this Subchapter cannot be installed and in operation by September 20, 1998, the owner or operator shall:

a. install and begin operation of the control equipment as soon as possible, but no later than September 20, 1998;

b. prepare an implementation schedule that includes the following information: specific calendar dates for award of contracts or issuance of purchase orders for the control equipment, initiation of on-site installation of the control equipment, completion of the control equipment installation, and performance of any testing to demonstrate that the installed equipment meets the applicable standards of this Subchapter;

c. for facilities subject to the recordkeeping requirements of LAC 33:V.4357, the owner or operator shall enter the implementation schedule specified in Subsection A.2.b of this Section in the operating record no later than September 20, 1998; and

d. for facilities not subject to LAC 33:V.4357, the owner or operator shall enter the implementation schedule specified in Subsection A.2.b of this Section in a permanent, readily available file located at the facility no later than September 20, 1998.

B. Owners or operators of facilities in existence on the effective date of statutory or regulatory amendments under the act that render the facility subject to Subchapters H, I, or J of this Chapter shall meet the following requirements:

1. install and begin operation of all control equipment required by this Subchapter by the effective date of the amendment, except as provided for in Subsection B.2 of this Section;

2. when control equipment required by this subchapter cannot be installed and begin operation by the effective date of the amendment, the owner or operator shall:

a. install and operate the control equipment as soon as possible, but no later than 30 months after the effective date of the amendment;

b. for facilities subject to the recordkeeping requirements of LAC 33:V.4357, enter and maintain the implementation schedule specified in Subsection A.2.b of this Section in the operating record no later than the effective date of the amendment; or

c. for facilities not subject to LAC 33:V.4357, the owner or operator shall enter and maintain the implementation schedule specified in Subsection A.2.b of this Section in a permanent, readily available file located at the facility site no later than the effective date of the amendment.

C. The administrative authority may elect to extend the implementation date for control equipment at a facility, on a case by case basis, to a date later than September 20, 1998, when special circumstances that are beyond the facility owner's or operator's control delay installation or operation of control equipment and the owner or operator has made all reasonable and prudent attempts to comply with the requirements of this Subchapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§4725. Standards: General

Interim status facilities are subject to the requirements of LAC 33:V.1751.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§4727. Waste Determination Procedures

A. Waste Determination Procedures to Determine Average Volatile Organic (VO) Concentration of a Hazardous Waste at the Point of Waste Origination

1. An owner or operator shall determine the average VO concentration at the point of waste origination for each hazardous waste placed in a waste management unit exempted under the provisions of LAC 33:V.4725 from using air emission controls in accordance with standards specified in LAC 33:V.4729-4735, as applicable to the waste management unit.

2. For a waste determination that is required by Subsection A.1 of this Section, the average VO concentration of a hazardous waste at the point of waste origination shall be determined using either direct measurement as specified in Subsection A.3 of this Section or by knowledge as specified in Subsection A.4 of this Section.

3. Direct Measurement to Determine Average VO Concentration of a Hazardous Waste at the Point of Waste Origination.

a. Identification. The owner or operator shall identify and record the point of waste origination for the hazardous waste.

b. Sampling. Samples of the hazardous waste stream shall be collected at the point of waste origination in a manner such that volatilization of organics contained in the waste and in the subsequent sample is minimized and an adequately representative sample is collected and maintained for analysis by the selected method.

i. The averaging period to be used for determining the average VO concentration for the hazardous waste stream on a mass-weighted average basis shall be designated and recorded. The averaging period can represent any time interval that the owner or operator determines is appropriate for the hazardous waste stream, but shall not exceed one year.

ii. A sufficient number of samples, but no less than four samples, shall be collected and analyzed for a hazardous waste determination. The average of the four or more sample results constitutes a waste determination for the waste stream. One or more waste determinations may be required to represent the complete range of waste compositions and quantities that occur during the entire averaging period due to normal variations in the operating conditions for the source or process generating the hazardous waste stream. Examples of such normal variations are seasonal variations in waste quantity or fluctuations in ambient temperature.

iii. All samples shall be collected and handled in accordance with written procedures prepared by the owner or operator and documented in a site sampling plan. This plan shall describe the procedure by which representative samples of the hazardous waste stream are collected such that a minimum loss of organics occurs throughout the sample collection and handling process and by which sample integrity is maintained. A copy of the written sampling plan shall be maintained on-site in the facility operating records. An example of an acceptable sampling plan includes a plan incorporating sample collection and handling procedures in accordance with the requirements specified in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A, or in Method 25D in 40 CFR part 60, appendix A.

c. Analysis. Each collected sample shall be prepared and analyzed in accordance with one or more of the methods listed in Subsection A.3.c.i-ix of this Section, including appropriate quality assurance and quality control (QA/QC) checks and use of target compounds for calibration. If Method 25D in 40 CFR part 60, appendix A is not used, then one or more methods should be chosen that are appropriate to ensure that the waste determination accounts for and reflects all organic compounds in the waste with Henry's law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³) at 25°C. Each of the analytical methods listed in Subsection A.3.c.ii - vii of this Section has an associated list of approved chemical compounds for which the department considers the method appropriate for measurement. If an owner or operator uses Method 624, 625, 1624, or 1625 in 40 CFR part 136, appendix A to analyze one or more compounds that are not on that method's published list, the Alternative Test Procedure contained in 40 CFR 136.4 and 136.5 must be followed. If an owner or operator uses EPA Method 8260 or 8270 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A, to analyze one or more compounds that are not on that method's published list, the procedures in Subsection A.3.c.viii of this Section must be followed. At the owner's or operator's discretion, the concentration of each individual chemical constituent measured in the waste by a method other than Method 25D may be corrected to the concentration had it been measured using Method 25D by multiplying the measured concentration by the constituent-specific adjustment factor (f_{m25D}) as specified in Subsection A.4.c of this Section. Constituent-specific adjustment factors (f_{m25D}) can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711:

- i. Method 25D in 40 CFR part 60, appendix A;
- ii. Method 624 in 40 CFR part 136, appendix A;
- iii. Method 625 in 40 CFR part 136, appendix A. Perform corrections to the compounds for which the analysis is being conducted based on the "accuracy as recovery" using the factors in Table 7 of the method;
- iv. Method 1624 in 40 CFR part 136, appendix A;

v. Method 1625 in 40 CFR part 136, appendix A;
 vi. Method 8260 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A. Maintain a formal quality assurance program consistent with the requirements of Method 8260. The quality assurance program shall include the following elements:

(a). documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, preparation, introduction, and analysis steps; and

(b). measurement of the overall accuracy and precision of the specific procedures;

vii. Method 8270 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A. Maintain a formal quality assurance program consistent with the requirements of Method 8270. The quality assurance program shall include the following elements:

(a). documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, preparation, introduction, and analysis steps; and

(b). measurement of the overall accuracy and precision of the specific procedures;

viii. any other EPA standard method that has been validated in accordance with *Alternative Validation Procedure for EPA Waste and Wastewater Methods*, 40 CFR part 63, appendix D. As an alternative, other EPA standard methods may be validated by the procedure specified in Subsection A.3.c.ix of this Section; and

ix. any other analysis method that has been validated in accordance with the procedures specified in section 5.1 or section 5.3, and the corresponding calculations in section 6.1 or section 6.3, of Method 301 in 40 CFR part 63, appendix A. The data are acceptable if they meet the criteria specified in section 6.1.5 or section 6.3.3 of Method 301. If correction is required under section 6.3.3 of Method 301, the data are acceptable if the correction factor is within the range 0.7 to 1.30. Other sections of Method 301 are not required.

d. Calculations

i. The average VO concentration (\bar{C}) on a mass-weighted basis shall be calculated by using the results for all waste determinations conducted in accordance with Subsection A.3.b and c of this Section and the following equation:

$$\bar{C} = \frac{1}{Q_T} \sum_{i=1}^u (Q_i \times C_i)$$

where:

\bar{C} = average VO concentration of the hazardous waste at the point of waste origination on a mass-weighted basis, ppmw.

I = individual waste determination "i" of the hazardous waste.

n = total number of waste determinations of the hazardous waste conducted for the averaging period (not to exceed one year).

Q_i = mass quantity of hazardous waste stream represented by C_i , kg/hr.

Q_T = total mass quantity of hazardous waste during the averaging period, kg/hr.

C_i = measured VO concentration of waste determination "i" as determined in accordance with the requirements of Subsection A.3.c of this Section (i.e., the average of the four or more samples specified in Subsection A.3.b.ii of this Section), ppmw.

ii. For the purpose of determining C_i for individual waste samples analyzed in accordance with Subsection A.3.c of this Section, the owner or operator shall account for VO concentrations determined to be below the limit of detection of the analytical method by using the following VO concentration:

(a). if Method 25D in 40 CFR part 60, appendix A is used for the analysis, one-half the blank value determined in the method at section 4.4 of Method 25D in 40 CFR part 60, appendix A;

(b). if any other analytical method is used, one-half the sum of the limits of detection established for each organic constituent in the waste that has a Henry's law constant value at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³) at 25EC.

e. Provided that the test method is appropriate for the waste as required under Subsection A.3.c of this Section, the department will determine compliance based on the test method used by the owner or operator as recorded in accordance with LAC 33:V.4735.

4. Use of Owner or Operator Knowledge to Determine Average VO Concentration of a Hazardous Waste at the Point of Waste Origination

a. Documentation shall be prepared that presents the information used as the basis for the owner's or operator's knowledge of the hazardous waste stream's average VO concentration. Examples of information that may be used as the basis for knowledge include:

i. material balances for the source or process generating the hazardous waste stream;

ii. constituent-specific chemical test data for the hazardous waste stream from previous testing that are still applicable to the current waste stream;

iii. previous test data for other locations managing the same type of waste stream; or

iv. other knowledge based on information included in manifests, shipping papers, or waste certification notices.

b. If test data are used as the basis for knowledge, then the owner or operator shall document the test method, sampling protocol, and the means by which sampling variability and analytical variability are accounted for in the determination of the average VO concentration. For example, an owner or operator may use organic concentration test data for the hazardous waste stream that is validated in accordance

with Method 301 in 40 CFR part 63, appendix A as the basis for knowledge of the waste.

c. An owner or operator using chemical constituent-specific concentration test data as the basis for knowledge of the hazardous waste may adjust the test data to the corresponding average VO concentration value that would have been obtained had the waste samples been analyzed using Method 25D in 40 CFR part 60, appendix A. To adjust these data, the measured concentration for each individual chemical constituent contained in the waste is multiplied by the appropriate constituent-specific adjustment factor (f_{m25D}).

d. In the event that the administrative authority and the owner or operator disagree on a determination of the average VO concentration for a hazardous waste stream using knowledge, then the results from a determination of average VO concentration using direct measurement as specified in Subsection A.3 of this Section shall be used to establish compliance with the applicable requirements of this Subpart. The administrative authority may perform or request that the owner or operator perform this determination using direct measurement. The owner or operator may choose one or more appropriate methods to analyze each collected sample in accordance with the requirements of Subsection A.3.c of this Section.

B. Waste Determination Procedures for Treated Hazardous Waste

1. An owner or operator shall perform the applicable waste determination for each treated hazardous waste placed in a waste management unit exempted under the provisions of LAC 33:V.4725 from using air emission controls in accordance with standards specified in LAC 33:V.4729-4735, as applicable to the waste management unit.

2. The owner or operator shall designate and record the specific provision in LAC 33:V.4725 under which the waste determination is being performed. The waste determination for the treated hazardous waste shall be performed using the applicable procedures specified in Subsection B.3 - 9 of this Section.

3. Procedure to Determine the Average VO Concentration of a Hazardous Waste at the Point of Waste Treatment

a. Identification. The owner or operator shall identify and record the point of waste treatment for the hazardous waste.

b. Sampling. Samples of the hazardous waste stream shall be collected at the point of waste treatment in a manner such that volatilization of organics contained in the waste and in the subsequent sample is minimized and an adequately representative sample is collected and maintained for analysis by the selected method.

i. The averaging period to be used for determining the average VO concentration for the hazardous waste stream on a mass-weighted average basis shall be designated and recorded. The averaging period can represent any time interval that the owner or operator determines is appropriate for the hazardous waste stream, but shall not exceed one year.

ii. A sufficient number of samples, but no less than four samples, shall be collected and analyzed for a hazardous waste determination. The average of the four or more sample

results constitutes a waste determination for the waste stream. One or more waste determinations may be required to represent the complete range of waste compositions and quantities that occur during the entire averaging period due to normal variations in the operating conditions for the source or process generating the hazardous waste stream. Examples of such normal variations are seasonal variations in waste quantity or fluctuations in ambient temperature.

iii. All samples shall be collected and handled in accordance with written procedures prepared by the owner or operator and documented in a site sampling plan. This plan shall describe the procedure by which representative samples of the hazardous waste stream are collected such that a minimum loss of organics occurs throughout the sample collection and handling process and by which sample integrity is maintained. A copy of the written sampling plan shall be maintained on-site in the facility operating records. An example of an acceptable sampling plan includes a plan incorporating sample collection and handling procedures in accordance with the requirements specified in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A, or in Method 25D in 40 CFR part 60, appendix A.

c. Analysis. Each collected sample shall be prepared and analyzed in accordance with one or more of the methods listed in Subsection B.3.c.i-ix of this Section, including appropriate quality assurance and quality control (QA/QC) checks and use of target compounds for calibration. When the owner or operator is making a waste determination for a treated hazardous waste that is to be compared to an average VO concentration at the point of waste origination or the point of waste entry to the treatment system, to determine if the conditions of LAC 33:V.4723 or 4725 are met, the waste samples shall be prepared and analyzed using the same method or methods as were used in making the initial waste determinations at the point of waste origination or at the point of entry to the treatment system. If Method 25D in 40 CFR part 60, appendix A is not used, then one or more methods should be chosen that are appropriate to ensure that the waste determination accounts for and reflects all organic compounds in the waste with Henry's law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) [which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³] at 25EC. Each of the analytical methods listed in Subsection B.3.c.ii - vii of this Section has an associated list of approved chemical compounds for which the department considers the method appropriate for measurement. If an owner or operator uses Method 624, 625, 1624, or 1625 in 40 CFR part 136, appendix A to analyze one or more compounds that are not on that method's published list, the Alternative Test Procedure contained in 40 CFR 136.4 and 136.5 must be followed. If an owner or operator uses Method 8260 or 8270 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A, to analyze one or more compounds that are not on that method's published list, the procedures in Subsection B.3.c.viii of this Section must be followed. At the owner or operator's

discretion, the concentration of each individual chemical constituent measured in the waste by a method other than Method 25D may be corrected to the concentration had it been measured using Method 25D by multiplying the measured concentration by the constituent-specific adjustment factor (f_{m25D}) as specified in Subsection B.4.c of this Section. Constituent-specific adjustment factors (f_{m25D}) can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711:

- i. Method 25D in 40 CFR part 60, appendix A;
- ii. Method 624 in 40 CFR part 136, appendix A;
- iii. Method 625 in 40 CFR part 136, appendix A.

Perform corrections to the compounds for which the analysis is being conducted based on the "accuracy as recovery" using the factors in Table 7 of the method;

- iv. Method 1624 in 40 CFR part 136, appendix A;
- v. Method 1625 in 40 CFR part 136, appendix A;
- vi. Method 8260 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A.

Maintain a formal quality assurance program consistent with the requirements of Method 8260. The quality assurance program shall include the following elements:

(a). documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, preparation, introduction, and analysis steps; and

(b). measurement of the overall accuracy and precision of the specific procedures;

vii. Method 8270 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A. Maintain a formal quality assurance program consistent with the requirements of Method 8270. The quality assurance program shall include the following elements:

(a). documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, preparation, introduction, and analysis steps;

(b). measurement of the overall accuracy and precision of the specific procedures;

viii. any other EPA standard method that has been validated in accordance with *Alternative Validation Procedure for EPA Waste and Wastewater Methods*, 40 CFR part 63, appendix D. As an alternative, other EPA standard methods may be validated by the procedure specified in Subsection B.3.c.ix of this Section;

ix. any other analysis method that has been validated in accordance with the procedures specified in section 5.1 or section 5.3, and the corresponding calculations in section 6.1 or section 6.3, of Method 301 in 40 CFR part 63, appendix A. The data are acceptable if they meet the criteria specified in section 6.1.5 or section 6.3.3 of Method 301. If correction is required under section 6.3.3 of Method 301, the data are acceptable if the correction factor is within

the range 0.7 to 1.30. Other sections of Method 301 are not required.

d. Calculations. The average VO concentration (\bar{C}) on a mass-weighted basis shall be calculated by using the results for all waste determinations conducted in accordance with Subsection B.3.b and c of this Section and the following equation:

$$\bar{C} = \frac{1}{Q_T} \sum_{i=1}^n (Q_i \times C_i)$$

where:

\bar{C} = average VO concentration of the hazardous waste at the point of waste treatment on a mass-weighted basis, ppmw.

I = individual waste determination "i" of the hazardous waste.

n = total number of waste determinations of the hazardous waste conducted for the averaging period (not to exceed one year).

Q_i = mass quantity of hazardous waste stream represented by C_i , kg/hr.

Q_T = total mass quantity of hazardous waste during the averaging period, kg/hr.

C_i = measured VO concentration of waste determination "i" as determined in accordance with the requirements of Subsection B.3.c of this Section (i.e., the average of the four or more samples specified in Subsection B.3.b.ii of this Section), ppmw.

e. Provided that the test method is appropriate for the waste as required under Subsection B.3.c of this Section, compliance shall be determined based on the test method used by the owner or operator as recorded in accordance with LAC 33:V.4739.

4. Procedure to Determine the Exit Concentration Limit (C_t) for a Treated Hazardous Waste

a. The point of waste origination for each hazardous waste treated by the process at the same time shall be identified.

b. If a single hazardous waste stream is identified in Subsection B.4.a of this Section, then the exit concentration limit (C_t) shall be 500 ppmw.

c. If more than one hazardous waste stream is identified in Subsection B.4.a of this Section, then the average VO concentration of each hazardous waste stream at the point of waste origination shall be determined in accordance with the requirements of Subsection A of this Section. The exit concentration limit (C_t) shall be calculated by using the results determined for each individual hazardous waste stream and the following equation:

$$C_t = \frac{\sum_{x=1}^m (Q_x \times \bar{C}_x) \% + \sum_{y=1}^n (Q_y \times 500 \text{ ppmw})}{\sum_{x=1}^m Q_x \% + \sum_{y=1}^n Q_y}$$

where:

C_t = exit concentration limit for treated hazardous waste, ppmw.

x = individual hazardous waste stream "x" that has an average VO concentration less than 500 ppmw at the point of waste origination as determined in accordance with the requirements of Subsection A of this Section.

y = individual hazardous waste stream "y" that has an average VO concentration equal to or greater than 500 ppmw at the point of waste origination as determined in accordance with the requirements of Subsection A of this Section.

m = total number of "x" hazardous waste streams treated by process.

n = total number of "y" hazardous waste streams treated by process.

Q_x = annual mass quantity of hazardous waste stream "x," kg/yr.

Q_y = annual mass quantity of hazardous waste stream "y," kg/yr.

\overline{C}_x = average VO concentration of hazardous waste stream "x" at the point of waste origination as determined in accordance with the requirements of Subsection A of this Section, ppmw.

5. Procedure to Determine the Organic Reduction Efficiency (R) for a Treated Hazardous Waste

a. The organic reduction efficiency (R) for a treatment process shall be determined based on results for a minimum of three consecutive runs.

b. All hazardous waste streams entering the treatment process and all hazardous waste streams exiting the treatment process shall be identified. The owner or operator shall prepare a sampling plan for measuring these streams that accurately reflects the retention time of the hazardous waste in the process.

c. For each run, information shall be determined for each hazardous waste stream identified in Subsection B.5.b of this Section using the following procedures:

i. the mass quantity of each hazardous waste stream entering the process (Q_b) and the mass quantity of each hazardous waste stream exiting the process (Q_a) shall be determined;

ii. the average VO concentration at the point of waste origination of each hazardous waste stream entering the process (\overline{C}_b) during the run shall be determined in accordance with the requirements of Subsection A.3 of this Section. The average VO concentration at the point of waste treatment of each waste stream exiting the process (\overline{C}_a) during the run shall be determined in accordance with the requirements of Subsection B.3 of this Section.

d. The waste volatile organic mass flow entering the process (E_b) and the waste volatile organic mass flow exiting the process (E_a) shall be calculated by using the results determined in accordance with Subsection B.5.c of this Section and the following equations:

$$E_b = \frac{1}{10^6} \sum_{j=1}^m (Q_{bj} \times \overline{C}_{bj})$$

$$E_a = \frac{1}{10^6} \sum_{j=1}^m (Q_{aj} \times \overline{C}_{aj})$$

where:

E_a = waste volatile organic mass flow exiting process, kg/hr.

E_b = waste volatile organic mass flow entering process, kg/hr.

m = total number of runs (at least 3).

j = individual run "j".

Q_b = mass quantity of hazardous waste entering process during run "j," kg/hr.

Q_a = average mass quantity of hazardous waste exiting process during run "j," kg/hr.

\overline{C}_a = average VO concentration of hazardous waste exiting process during run "j" as determined in accordance with the requirements of Subsection B.3 of this Section, ppmw.

\overline{C}_b = average VO concentration of hazardous waste entering process during run "j" as determined in accordance with the requirements of Subsection A.3 of this Section, ppmw.

e. The organic reduction efficiency of the process shall be calculated by using the results determined in accordance with Subsection B.5.d of this Section and the following equation:

$$R = \frac{E_b \& E_a}{E_b} \times 100\%$$

where:

R = organic reduction efficiency, percent.

E_b = waste volatile organic mass flow entering process as determined in accordance with the requirements of Subsection B.5.d of this Section, kg/hr.

E_a = waste volatile organic mass flow exiting process as determined in accordance with the requirements of Subsection B.5.d of this Section, kg/hr.

6. Procedure to Determine the Organic Biodegradation Efficiency (R_{bio}) for a Treated Hazardous Waste

a. The fraction of organics biodegraded (F_{bio}) shall be determined using the procedure specified in 40 CFR part 63, appendix C.

b. The R_{bio} shall be calculated by using the following equation:

$$R_{bio} = F_{bio} \times 100\%$$

where:

R_{bio} = organic biodegradation efficiency, percent.

F_{bio} = fraction of organic biodegraded as determined in accordance with the requirements of Subsection B.6.a of this Section.

7. Procedure to Determine the Required Organic Mass Removal Rate (RMR) for a Treated Hazardous Waste

a. All of the hazardous waste streams entering the treatment process shall be identified.

b. The average VO concentration of each hazardous waste stream at the point of waste origination shall be determined in accordance with the requirements of Subsection A of this Section.

c. For each individual hazardous waste stream that has

an average VO concentration equal to or greater than 500 ppmw at the point of waste origination, the average volumetric flow rate and the density of the hazardous waste stream at the point of waste origination shall be determined.

d. The RMR shall be calculated by using the average VO concentration, average volumetric flow rate, and density determined for each individual hazardous waste stream and the following equation:

$$RMR = \sum_{y=1}^n \left[V_y \times k_y \times \frac{(\bar{C}_y \& 500 \text{ ppmw})}{10^6} \right]$$

where:

RMR = required organic mass removal rate, kg/hr.

y = individual hazardous waste stream "y" that has an average VO concentration equal to or greater than 500 ppmw at the point of waste origination as determined in accordance with the requirements of Subsection A of this Section.

n = total number of "y" hazardous waste streams treated by process.

V_y = average volumetric flow rate of hazardous waste stream "y" at the point of waste origination, m³/hr.

k_y = density of hazardous waste stream "y," kg/m³.

\bar{C}_y = average VO concentration of hazardous waste stream "y" at the point of waste origination as determined in accordance with the requirements of Subsection A of this Section, ppmw.

8. Procedure to Determine the Actual Organic Mass Removal Rate (MR) for a Treated Hazardous Waste

a. The MR shall be determined based on results for a minimum of three consecutive runs. The sampling time for each run shall be one hour.

b. The waste volatile organic mass flow entering the process (E_b) and the waste volatile organic mass flow exiting the process (E_a) shall be determined in accordance with the requirements of Subsection B.5.d of this Section.

c. The MR shall be calculated by using the mass flow rate determined in accordance with the requirements of Subsection B.8.b of this Section and the following equation:

$$MR = E_b - E_a$$

where:

MR=actual organic mass removal rate, kg/hr.

E_b=waste volatile organic mass flow entering process as determined in accordance with the requirements of Subsection B.5.d of this Section, kg/hr.

E_a=waste volatile organic mass flow exiting process as determined in accordance with the requirements of Subsection B.5.d of this Section, kg/hr.

9. Procedure to Determine the Actual Organic Mass Biodegradation Rate (MR_{bio}) for a Treated Hazardous Waste

a. The MR_{bio} shall be determined based on results for a minimum of three consecutive runs. The sampling time for each run shall be one hour.

b. The waste organic mass flow entering the process (E_b) shall be determined in accordance with the requirements of Subsection B.5.d of this Section.

c. The fraction of organic biodegraded (F_{bio}) shall be determined using the procedure specified in 40 CFR part 63, appendix C.

d. The MR_{bio} shall be calculated by using the mass flow rates and fraction of organic biodegraded determined in accordance with the requirements of Subsection B.9.b and c of this Section, respectively, and the following equation:

$$MR_{bio} = E_b \times F_{bio}$$

where:

Mr_{bio}=actual organic mass biodegradation rate, kg/hr.

E_b=waste organic mass flow entering process as determined in accordance with the requirements of Subsection B.5.d of this Section, kg/hr.

F_{bio}=fraction of organic biodegraded as determined in accordance with the requirements of Subsection B.9.c of this Section.

C. Procedure to Determine the Maximum Organic Vapor Pressure of a Hazardous Waste in a Tank

1. An owner or operator shall determine the maximum organic vapor pressure for each hazardous waste placed in a tank using Tank Level 1 controls in accordance with the standards specified in LAC 33:V.4729.

2. An owner or operator shall use either direct measurement as specified in Subsection C.3 of this Section or knowledge of the waste as specified by Subsection C.4 of this Section to determine the maximum organic vapor pressure which is representative of the hazardous waste composition stored or treated in the tank.

3. Direct Measurement to Determine the Maximum Organic Vapor Pressure of a Hazardous Waste

a. Sampling. A sufficient number of samples shall be collected to be representative of the waste contained in the tank. All samples shall be collected and handled in accordance with written procedures prepared by the owner or operator and documented in a site sampling plan. This plan shall describe the procedure by which representative samples of the hazardous waste are collected such that a minimum loss of organics occurs throughout the sample collection and handling process and by which sample integrity is maintained. A copy of the written sampling plan shall be maintained on-site in the facility operating records. An example of an acceptable sampling plan includes a plan incorporating sample collection and handling procedures in accordance with the requirements specified in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A, or in Method 25D in 40 CFR part 60, appendix A.

b. Analysis. Any appropriate one of the following methods may be used to analyze the samples and compute the maximum organic vapor pressure of the hazardous waste:

- i. Method 25E in 40 CFR part 60 appendix A;
- ii. methods described in American Petroleum Institute Publication 2517, Third Edition, February 1989, *Evaporative Loss from External Floating-Roof Tanks*, incorporated by reference in LAC 33:V.110.A;
- iii. methods obtained from standard reference texts;
- iv. ASTM Method 2879-92, incorporated by reference in LAC 33:V.110.A; and
- v. any other method approved by the administrative authority.

4. Use of Knowledge to Determine the Maximum Organic Vapor Pressure of the Hazardous Waste.

Documentation shall be prepared and recorded that presents the information used as the basis for the owner's or operator's knowledge that the maximum organic vapor pressure of the hazardous waste is less than the maximum vapor pressure limit listed in LAC 33:V.4729 for the applicable tank design capacity category. An example of information that may be used is documentation that the hazardous waste is generated by a process for which, at other locations, it previously has been determined by direct measurement that the waste maximum organic vapor pressure is less than the maximum vapor pressure limit for the appropriate tank design capacity category.

D. Procedure for Determining No Detectable Organic Emissions for the Purpose of Complying with this Subpart

1. The test shall be conducted in accordance with the procedures specified in Method 21 of 40 CFR part 60, appendix A. Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the cover and associated closure devices shall be checked. Potential leak interfaces that are associated with covers and closure devices include, but are not limited to: the interface of the cover and its foundation mounting; the periphery of any opening on the cover and its associated closure device; and the sealing seat interface on a spring-loaded pressure relief valve.

2. The test shall be performed when the unit contains a hazardous waste having an organic concentration representative of the range of concentrations for the hazardous waste expected to be managed in the unit. During the test the cover and closure devices shall be secured in the closed position.

3. The detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A, except the instrument response factor criteria in section 3.1.2(a) of Method 21 shall be for the average composition of the organic constituents in the hazardous waste placed in the waste management unit, not for each individual organic constituent.

4. The detection instrument shall be calibrated before use on each day of its use by the procedures specified in Method 21 of 40 CFR part 60, appendix A.

5. Calibration gases shall be as follows:

- a. zero air (less than 10 ppmv hydrocarbon in air); and
- b. a mixture of methane or n-hexane and air at a concentration of approximately, but less than, 10,000 ppmv methane or n-hexane.

6. The background level shall be determined according to the procedures in Method 21 of 40 CFR part 60, appendix A.

7. Each potential leak interface shall be checked by traversing the instrument probe around the potential leak interface as close to the interface as possible, as described in Method 21 of 40 CFR part 60, appendix A. In the case when the configuration of the cover or closure device prevents a complete traverse of the interface, all accessible portions of the interface shall be sampled. In the case when the configuration of the closure device prevents any sampling at the interface and the device is equipped with an enclosed extension or horn (e.g., some pressure relief devices), the

instrument probe inlet shall be placed at approximately the center of the exhaust area to the atmosphere.

8. The arithmetic difference between the maximum organic concentration indicated by the instrument and the background level shall be compared with the value of 500 ppmv, except when monitoring a seal around a rotating shaft that passes through a cover opening, in which case the comparison shall be as specified in Subsection D.9 of this Section. If the difference is less than 500 ppmv, then the potential leak interface is determined to operate with no detectable organic emissions.

9. For the seals around a rotating shaft that passes through a cover opening, the arithmetic difference between the maximum organic concentration indicated by the instrument and the background level shall be compared with the value of 10,000 ppmw. If the difference is less than 10,000 ppmw, then the potential leak interface is determined to operate with no detectable organic emissions.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§4729. Standards: Tanks

Interim status facilities are subject to the requirements of LAC 33:V.1755.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§4731. Standards: Surface Impoundments

Interim status facilities are subject to the requirements of LAC 33:V.1757.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§4733. Standards: Containers

Interim status facilities are subject to the requirements of LAC 33:V.1759.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§4735. Standards: Closed-Vent Systems and Control Devices

Interim status facilities are subject to the requirements of LAC 33:V.1761.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§4737. Inspection and Monitoring Requirements

Interim status facilities are subject to the requirements of LAC 33:V.1763.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§4739. Recordkeeping Requirements

Interim status facilities are subject to the requirements of LAC 33:V.1765

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

Chapter 49. Lists of Hazardous Wastes

§4901. Category I Hazardous Wastes

A. A solid waste is a hazardous waste if it is listed in this Chapter, unless it has been excluded from this list under LAC 33:V.105.M.

[Comment: Chapter 49 is divided into two sections: Category I Hazardous Wastes, which consist of Hazardous Wastes from nonspecific and specific sources (F and K wastes), Acute Hazardous Wastes (P wastes), and Toxic Wastes (U wastes) (LAC 33:V.4901); and Category II Hazardous Wastes, which consist of wastes which are ignitable, corrosive, reactive, or toxic (LAC 33:V.4903).]

Hazard codes are defined as follows for the listed hazardous wastes.

- Ignitable waste (I)
- Corrosive waste (C)
- Reactive waste (R)
- Toxicity Characteristic waste (E)
- Acute hazardous waste (H)
- or Acutely hazardous waste toxic waste (T)

1. Each hazardous waste listed in this Chapter is assigned an EPA Hazardous Waste number, which precedes the name of the waste. This number must be used in complying with the notification requirements of Section 3010 of the act and certain recordkeeping and reporting requirements under LAC 33:V.Chapters 3-29, 31-39, and 43.

[See Prior Text in A.2-D.2]

3. any residue remaining in a container or an inner liner removed from a container that has held any commercial chemical product or manufacturing chemical intermediate having the generic name listed in LAC 33:V.4901.E or F, unless the container is empty as defined in LAC 33:V.109.Empty Container.2 ;

4. any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill into or on any land or water of any commercial chemical product or manufacturing chemical intermediate having the generic name listed in LAC 33:V.4901.E or F, or any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any off-specification chemical product or manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in LAC 33:V.4901.E or F;

[Comment: The phrase "commercial chemical product or manufacturing chemical intermediate having the generic name listed in . ." refers to a chemical substance that is manufactured or formulated for commercial or manufacturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are

produced or marketed, and all formulations in which the chemical is the sole active ingredient. It does not refer to a material, such as a manufacturing process waste, that contains any of the substances listed in LAC 33:V.4901.E or F. Where a manufacturing process waste is deemed to be a hazardous waste because it contains a substance listed in LAC 33:V.4901.E or F, such waste will be listed in either LAC 33:V.4901.B or C or will be identified as a hazardous waste by the characteristics set forth in LAC 33:V.4903.]

[See Prior Text in E -Table 3]

F. Commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products referred to in LAC 33:V.4901.D.1-4 are identified as toxic wastes (T) unless otherwise designated and are subject to the small quantity generator exclusion defined in LAC 33:V.3903, 3913, and 3915.A and C. These wastes and their corresponding EPA Hazardous Waste Numbers are listed in Table 4.

[Comment: For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), R (Reactivity), I (Ignitability), and C (Corrosivity). Absence of a letter indicates that the compound is listed only for toxicity.]

Table 4. Toxic Wastes		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste
*** [See Prior Text]		
U119	62-50-0	Ethyl methanesulfonate
U120	206-44-0	Fluoranthene
*** [See Prior Text]		
U182	123-63-7	Paraldehyde
U183	608-93-5	Pentachlorobenzene
*** [See Prior Text]		
U179	100-75-4	Piperidine, 1-nitroso-
U192	23950-58-5	Pronamide
*** [See Prior Text]		
U205	7488-56-4	Selenium sulfide SeS ₂ (R,T)
U015	115-02-6	L-Serine, diazoacetate (ester)
See F027	93-72-1	Silvex(2,4,5-TP)
U206	18883-66-4	Streptozotocin
U103	77-78-1	Sulfuric acid, dimethyl ester
*** [See Prior Text]		
See F027	93-76-5	2,4,5-T
U207	95-94-3	1,2,4,5-Tetrachlorobenzene
*** [See Prior Text]		
U213	109-99-9	Tetrahydrofuran (I)

U214	563-68-8	Thallium(I) acetate
* * *		
[See Prior Text]		
U217	10102-45-1	Thallium(I) nitrate
U218	62-55-5	Thioacetamide
* * *		
[See Prior Text]		
U244	137-26-8	Thioperoxydicarbonic diamide [(H ₂ N)C(S)] ₂ S ₂ , tetramethyl-
U409	23564-05-8	Thiophanatemethyl
* * *		
[See Prior Text]		
U177	684-93-5	Urea, N-methyl-N-nitroso-
U043	75-01-4	Vinyl chloride
* * *		
[See Prior Text]		

¹CAS Number given for parent compound only.

* * *

[See Prior Text in G-Table 6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:790 (November 1988), LR 15:182 (March 1989), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:829 (September 1996), LR 22:840 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1522 (November 1997), LR 24:321 (February 1998), LR 24:686 (April 1998), LR 24:

Chapter 53. Military Munitions

§5301. Applicability

A. The regulations in this Chapter identify when military munitions become a solid waste and if these wastes are also hazardous under this Chapter or LAC 33:Chapter 1 and the management standards that apply to these wastes.

B. Unless otherwise specified in this Chapter, all applicable requirements in these regulations apply to waste military munitions.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§5303. Definition of Military Munitions as a Solid Waste

A. A military munition is not a solid waste when:

1. used for its intended purpose, including:

a. use in training military personnel or explosives and munitions emergency response specialists (including training in proper destruction of unused propellant or other munitions);

b. use in research, development, testing, and evaluation of military munitions, weapons, or weapon systems; or

c. recovery, collection, and on-range destruction of unexploded ordnance and munitions fragments during range clearance activities at active or inactive ranges. However, "use for intended purpose" does not include the on-range disposal or burial of unexploded ordnance and contaminants when the burial is not a result of product use;

2. an unused munition, or component thereof, is being repaired, reused, recycled, reclaimed, disassembled, reconfigured, or otherwise subjected to materials recovery activities, unless such activities involve use constituting disposal as defined in LAC 33:V.109. Solid Waste, or burning for energy recovery as defined in LAC 33:V.109.Solid Waste.

B. An unused military munition is a solid waste when any of the following occurs:

1. the munition is abandoned by being disposed of, burned, detonated (except during intended use as specified in Subsection A of this Section), incinerated, or treated prior to disposal;

2. the munition is removed from storage in a military magazine or other storage area for the purpose of being disposed of, burned, or incinerated, or treated prior to disposal;

3. the munition is deteriorated or damaged (e.g., the integrity of the munition is compromised by cracks, leaks, or other damage) to the point that it cannot be put into serviceable condition and cannot reasonably be recycled or used for other purposes; or

4. the munition has been declared a solid waste by an authorized military official.

C. A used or fired military munition is a solid waste:

1. when transported off range or from the site of use, where the site of use is not a range, for the purposes of storage, reclamation, treatment, disposal, or treatment prior to disposal; or

2. if recovered, collected, and then disposed of by burial, or landfilling either on or off a range.

D. For purposes of RCRA section 1004(27), a used or fired military munition is a solid waste and, therefore, is potentially subject to RCRA corrective action authorities under sections 3004(u) and (v), and 3008(h) or imminent and substantial endangerment authorities under section 7003, if the munition lands off-range and is not promptly rendered safe and/or retrieved. Any imminent and substantial threats associated with any remaining material must be addressed. If remedial action is infeasible, the operator of the range must maintain a record of the event for as long as any threat remains. The record must include the type of munition and its location (to the extent the location is known).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§5305. Standards Applicable to the Transportation of Solid Waste Military Munitions

A. Criteria for Hazardous Waste Regulation of Waste Non-Chemical Military Munitions in Transportation

1. Waste military munitions that are being transported and that exhibit a hazardous waste characteristic or are listed as hazardous waste under LAC 33:V.Chapter 49 are listed or identified as a hazardous waste (and thus are subject to regulation under LAC 33:V.Subpart 1) unless all the following conditions are met:

a. the waste military munitions are not chemical agents or chemical munitions;

b. the waste military munitions must be transported in accordance with the Department of Defense (DOD) shipping controls applicable to the transport of military munitions;

c. the waste military munitions must be transported from a military owned or operated installation to a military owned or operated treatment, storage, or disposal facility; and

d. the transporter of the waste must provide oral notice to the administrative authority within 24 hours from the time the transporter becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of Subsection A.1 of this Section that may endanger health or the environment. In addition, a written submission describing the circumstances shall be provided within five days from the time the transporter becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of Subsection A.1 of this Section.

2. If any waste military munitions shipped under Subsection A.1 of this Section are not received by the receiving facility within 45 days of the day the waste was shipped, the owner or operator of the receiving facility must report this non-receipt to the administrative authority within five days.

3. The exemption in Subsection A.1 of this Section from regulation as hazardous waste shall apply only to the transportation of non-chemical waste military munitions. It does not affect the regulatory status of waste military munitions as hazardous wastes with regard to storage, treatment, or disposal.

4. The conditional exemption in Subsection A.1 of this Section applies only so long as all of the conditions in Subsection A.1 of this Section are met.

B. Reinstatement of Exemption. If any waste military munition loses its exemption under Subsection A.1 of this Section, an application may be filed with the administrative authority for reinstatement of the exemption from hazardous waste transportation regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of Subsection A.1 of this Section. If the administrative authority finds that reinstatement of the exemption is appropriate based on factors such as the transporter's provision of a satisfactory explanation of the circumstances of the violation or a demonstration that the violations are not likely to recur, the administrative authority may reinstate the exemption under Subsection A.1 of this Section. If the administrative authority does not take action on the reinstatement application within 60 days after receipt of the application, then reinstatement shall be deemed granted, retroactive to the date of the application. However, the administrative authority may terminate a conditional exemption reinstated by default in the preceding sentence if the administrative authority finds that reinstatement is inappropriate based on factors such as the transporter's failure to provide a satisfactory explanation of the circumstances of the violation or failure to demonstrate that the violations are not likely to recur. In reinstating the exemption under

Subsection A.1 of this Section, the administrative authority may specify additional conditions as are necessary to ensure and document proper transportation to protect human health and the environment.

C. Amendments to DOD Shipping Controls. The Department of Defense shipping controls applicable to the transport of military munitions referenced in Subsection A.1.b of this Section are Government Bill of Lading (GBL) (GSA Standard Form 1109), requisition-tracking form DD Form 1348, the Signature and Talley Record (DD Form 1907), Special Instructions for Motor Vehicle Drivers (DD Form 836), and the Motor Vehicle Inspection Report (DD Form 626) in effect on November 8, 1995, except as provided in the following sentence. Any amendments to the Department of Defense shipping controls shall become effective for purposes of Subsection A.1 of this Section on the date the Department of Defense publishes notice in the Federal Register that the shipping controls referenced in Subsection A.1.b of this Section have been amended.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§5307. Standards Applicable to Emergency Responses

Explosives and munitions emergencies involving military munitions or explosives are subject to LAC 33:V.1101.H, 1301.G, 1501.7.a, and 4307, or alternatively to LAC 33:V.701.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§5309. Standards Applicable to the Storage of Solid Waste Military Munitions

A. Criteria for Hazardous Waste Regulation of Waste Non-Chemical Military Munitions in Storage

1. Waste military munitions in storage that exhibit a hazardous waste characteristic or are listed as hazardous waste under LAC 33:V.Chapter 49 are listed or identified as a hazardous waste (and thus are subject to regulation under LAC 33:V.Subpart 1), unless all the following conditions are met:

a. the waste military munitions are not chemical agents or chemical munitions;

b. the waste military munitions must be subject to the jurisdiction of the Department of Defense Explosives Safety Board (DDESB);

c. the waste military munitions must be stored in accordance with the DDESB storage standards applicable to waste military munitions;

d. within 90 days of when a storage unit is first used to store waste military munitions, whichever is later, the owner or operator must notify the administrative authority of the location of any waste storage unit used to store waste military munitions for which the conditional exemption in Subsection A.1 of this Section is claimed;

e. the owner or operator must provide oral notice to the administrative authority within 24 hours from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of Subsection A.1 of this Section that may endanger health or the

environment. In addition, a written submission describing the circumstances shall be provided within five days from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of Subsection A.1 of this Section;

f. the owner or operator must inventory the waste military munitions at least annually, must inspect the waste military munitions at least quarterly for compliance with the conditions of Subsection A.1 of this Section, and must maintain records of the findings of these inventories and inspections for at least three years; and

g. access to the stored waste military munitions must be limited to appropriately trained and authorized personnel.

2. The conditional exemption in Subsection A.1 of this Section from regulation as hazardous waste shall apply only to the storage of non-chemical waste military munitions. It does not affect the regulatory status of waste military munitions as hazardous wastes with regard to transportation, treatment or disposal.

3. The conditional exemption in Subsection A.1 of this Section applies only so long as all of the conditions in Subsection A.1 of this Section are met.

B. Notice of Termination of Waste Storage. The owner or operator must notify the administrative authority when a storage unit identified in Subsection A.1.d of this Section will no longer be used to store waste military munitions.

C. Reinstatement of Conditional Exemption. If any waste military munition loses its conditional exemption under Subsection A.1 of this Section, an application may be filed with the administrative authority for reinstatement of the conditional exemption from hazardous waste storage regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of Subsection A.1 of this Section. If the administrative authority finds that reinstatement of the conditional exemption is appropriate based on factors such as the owner's or operator's provision of a satisfactory explanation of the circumstances of the violation or a demonstration that the violations are not likely to recur, the administrative authority may reinstate the conditional exemption under Subsection A.1 of this Section. If the administrative authority does not take action on the reinstatement application within 60 days after receipt of the application, then reinstatement shall be deemed granted, retroactive to the date of the application. However, the administrative authority may terminate a conditional exemption reinstated by default in the preceding sentence if he/she finds that reinstatement is inappropriate based on factors such as the owner's or operator's failure to provide a satisfactory explanation of the circumstances of the violation or failure to demonstrate that the violations are not likely to recur. In reinstating the conditional exemption under Subsection A.1 of this Section, the administrative authority may specify additional conditions as are necessary to ensure and document proper storage to protect human health and the environment.

D. Waste Chemical Munitions

1. Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under LAC 33:V.Chapter 49 are listed or identified as a hazardous waste and shall be subject to the applicable regulatory requirements of RCRA subtitle C.

2. Waste military munitions that are chemical agents or

chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under LAC 33:V.Chapter 49 are not subject to the storage prohibition in RCRA section 3004(j), codified at LAC 33:V.2205.

E. Amendments to DDESB Storage Standards. The DDESB storage standards applicable to waste military munitions, referenced in Subsection A.1.c of this Section, are DOD 6055.9-STD ("DOD Ammunition and Explosive Safety Standards"), in effect on November 8, 1995, except as provided in the following sentence. Any amendments to the DDESB storage standards shall become effective for purposes of Subsection A.1 of this Section on the date the Department of Defense publishes notice in the Federal Register that the DDESB standards referenced in Subsection A.1 of this Section have been amended.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

§5311. Standards Applicable to the Treatment and Disposal of Waste Military Munitions

The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in LAC 33:V.Subpart 1.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24.

A public hearing will be held on August 24, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. 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 Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by HW064*. Such comments must be received no later than August 24, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of HW064*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m. 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

H.M. Strong
Assistant Secretary

9807#070

NOTICE OF INTENT

Office of the Governor Office of Elderly Affairs

Title III-C Nutrition Services (LAC 4:VII.1223)

In accordance with Revised Statutes 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend §1223 of the GOEA Policy Manual effective October 20, 1998. The proposed rule change redefines: the services that can be funded under Title III-C of the Older Americans Act; participant eligibility requirements; criteria for United States Department of Agriculture (USDA) support; minimum standards for service delivery; the time frame for reassessment of need for home delivered meals; packaging requirements for home delivered meals; menu standards; and mandatory menu patterns. The proposed changes are intended to improve the efficiency of program operations. This rule complies with Sections 307, 313 and 336 of the Older Americans Act.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

§1223. Title III-C Nutrition Services

A. Definitions of Nutrition Services

1. Congregate Meals. A congregate meal is a meal provided at an Older Americans Act (OAA) Title III-C Program "nutrition site" as described in Subsection F.2 of this Section. Congregate meals shall provide a minimum of one-third of the 1989 Recommended Dietary Allowance RDAs for men over 51 years or Adequate Intake (AI) for men ages either 50 to 70 years of age or 70, whichever is the higher requirement, as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council. Congregate meals may be hot, cold, or a combination of both. Congregate meals must be provided at least once a day, five or more days per week, no less than 250 days per year (except in sites located in rural areas where such frequency is not feasible and a lesser frequency is approved by the State Agency).

2. Home-Delivered Meals. A home-delivered meal is a meal served in the home to an individual who meets the criteria in Subsection B.2.a of this Section. Home delivered meals shall provide a minimum of one-third of the 1989 Recommended Dietary Allowances (RDAs) for men over 51 years or Adequate Intake (AI) for men ages either 50 to 70 years of age or 70, whichever is the higher requirement as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council. Home delivered meals may consist of hot, cold, frozen, dried, canned, or medical foods. Home-delivered meals shall be available to participants five or more days per week, no less than 250 days per year (except in rural areas where such frequency is not feasible and a lesser frequency is approved by the State Agency).

3. Nutrition Education. Nutrition Education is a program to promote better health by providing accurate and

culturally sensitive nutrition, physical fitness, or health (as it relates to nutrition) information and instruction to participants or participants and caregivers in a group or individual setting overseen by a dietitian or individual of comparable expertise.

4. Outreach. The term "outreach" is defined as an intervention initiated by an agency or organization for the purpose of identifying potential clients and encouraging their use of existing services and benefits.

B. Participant Eligibility

1. Congregate Nutrition Services

a. Eligible participants include:

i. persons aged 60 or older, and their spouses, regardless of age. Preference must be given to clients who are economically and/or socially needy;

ii. handicapped or disabled individuals who have not attained 60 years of age but who reside in housing facilities occupied primarily by the elderly at which congregate nutrition services are provided;

b. - c. ...

d. each area agency shall establish procedures that will allow nutrition services providers the option to offer a meal, on the same basis as meals are provided to participants, to individuals providing volunteer services during the meal hours, and to individuals who reside at home with and accompany older individuals who are eligible Title III participants.

2. Home-Delivered Nutrition Services

a. Eligible participants include:

i. ...

ii. individuals with disabilities who reside at home with the recipient if receipt of the meal is deemed in the best interest of the homebound older person; and

iii. ...

b. Each area agency must establish procedures for nutrition projects to ensure that participants receiving home-delivered meals shall be selected and prioritized using GOEA's Uniform Intake and Assessment Instrument. The minimum criteria for determination of need are that the participant must be unable to leave home without assistance and have no one available to provide assistance in the preparation and consumption of a meal. Preference must be given to clients who are economically and/or socially needy. However, no criteria that disqualifies an eligible participant from receiving nutrition services shall be established.

C. USDA Entitlement

1. The United States Department of Agriculture (USDA) provides USDA food, cash, or a combination of food and cash for nutrition services providers. The Governor's Office of Elderly Affairs will distribute cash received from USDA to area agencies for nutrition services based on each agency's proportion of the total number of eligible meals served in the state. The Louisiana Department of Agriculture contracts directly with the nutrition services provider for the distribution of USDA food.

2. A meal served in Title III-C programs is eligible for USDA support, regardless of the funding source, if it meets the following three criteria.

a. The meal served provides a minimum of one-third of the 1989 Recommended Dietary Allowance (RDAs)

established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council.

b. The meal is served to an individual who is eligible for a meal as specified in Subsection B of this Section.

c. ...

2. Area Agencies must spend USDA cash for buying only United States agricultural commodities and food.

3. The requirements of 7 CFR Part 250 for participation in the USDA program govern all USDA commodity transactions for the elderly nutrition program. The nutrition services provider must establish procedures for any USDA food made available and must assure appropriate and cost effective arrangements for the transportation, storage and use of the food. The Area Agency on Aging should require the inclusion of USDA regulatory mandates in contracts/grants with Title III-C providers and subcontractors.

D. Selection of Nutrition Services Providers. An area agency may make awards for congregate and home-delivered nutrition services to a provider that furnishes either or both type(s) of service.

a. Nutrition Services Providers. The area agency must award funds for the provision of nutrition services through a competitive process in compliance with guidelines established by the Governor's Office of Elderly Affairs.

b. Home-Delivered Meals Providers. To the extent feasible, in making awards for home-delivered meals, an area agency must give preference to public, private nonprofit, and voluntary organizations which:

i. have demonstrated an ability to provide home-delivered meals efficiently and reasonably; and

ii. have furnished assurances to maintain efforts to solicit voluntary support and not to use the funds received under this part to take the place of funds from non-federal sources.

E. ...

F. Minimum Standards

1. The area agency shall assure that each nutrition service provider employs mechanisms to insure sound financial management. The area agency must develop a policy which assures that each congregate nutrition provider shall:

a. - b. ...

c. serve an average of at least 20 meals per day at each congregate site or a number that is determined to be cost effective and a lesser number is approved by the State Agency;

d. serve meals at least five days per week, no less than 250 days per year (except in sites located in rural areas where such frequency is not feasible and a lesser frequency is approved by the State Agency);

e. make special provisions as necessary for the service of meals to eligible handicapped individuals;

f. provide meals during emergencies where feasible in accordance with menus approved annually by GOEA;

g. post emergency procedures, (e.g., fire, storms, etc.);

h. have available to the public a copy of written policy for determining who is eligible to receive home-delivered meals; and

i. ...

2. Nutrition sites shall be located in as close proximity to the majority of eligible individuals' residences as feasible, with particular attention upon multipurpose senior centers, schools, churches, or other appropriate community facilities, preferably within walking distance where possible, and where appropriate, transportation to such sites is furnished. Emphasis shall be placed on locating sites in areas having high concentrations of economic or social needy older individuals.

3. The area agency must develop procedures that will assure a quarterly inspection of each nutrition site by appropriate staff.

4. ...

5. The area agency shall assess all Title III-C Nutrition Program participants using GOEA's Uniform Intake and Assessment Instrument for all nutrition participants. At a minimum, each client's record should include: the participant's name, address, telephone number, date of birth, sex, and emergency information.

6. - 7. ...

8. Exceptions to the assurances in Paragraph 1 of this Subsection must be approved in writing by the Governor's Office of Elderly Affairs.

G. ...

H. Reassessment for Home Delivered Meals. Each home-delivered meals provider must reassess the need for home-delivered meals and other nutrition services in accordance with GOEA uniform intake and assessment procedures.

I. ...

J. Food Stamp Program. Nutrition services providers must assist participants in taking advantage of benefits available to them under the food stamp program. Nutrition services providers must coordinate their activities with agencies responsible for administering the food stamp program to facilitate participation of eligible older persons in the program.

K. - M.3. ...

4. Cold and hot food must be packaged and packed separately. Divided containers must be used for hot food. Appropriate individual containers with tight fitting lids must be used for all cold food. "Sandwich" type bags which can be sealed may be used for bread. Bread must not be placed on top of other food. All food delivery equipment and carriers must be sanitized daily.

N. - P. ...

Q. Menu Standards

1. Menus prepared for the nutrition program must:

a. be accompanied by nutrient calculations using computer software based on "Bowes and Church's Food Values of Portions Commonly Used," "USDA Handbook Number 8," or other appropriate nutrient data base;

b. be certified in writing by the licensed dietitian/nutritionist whose services are utilized by the provider as providing one-third of the current Recommended Dietary Allowances (RDAs) for men over 51 years or Adequate Intake (AI) for men ages either 50 to 70 years of age or 70, whichever is the higher requirement;

c. incorporate the dietary guidelines of the U.S. Department of Agriculture.

i. The total fat content, based on total calories, must not exceed 35 percent of the meal. The sodium content of the meal must fall within the range of a "NO ADDED SALT" diet (no more than 1,000-1,300 milligrams of sodium per meal). High fiber foods should be included in meals.

ii. Sodium and fat restrictions may be waived for emergency meals only.

d. - h. ...

2. Service providers shall use the following menu pattern.

a. Meat or Meat Alternate Group. A serving shall consist of three ounces of cooked, edible meat, fish or fowl; eggs; or cheese. Meat alternates such as cooked dried beans are encouraged in order to increase fiber and lower fat content of meals. (One-fourth cup of cooked beans or peas is equivalent to 1 ounce of the meat requirement).

b. Vegetable and Fruit Group. Two one-half cup servings shall be provided. This shall include all vegetable juices, all fruits, and all full strength fruit juices. Fruit used as a dessert should not be counted toward the suggested two servings of vegetables and fruits. A minimum of 4 high fiber selections per week shall be provided, for example: fruits and vegetables, peas, beans, tossed salads, etc.

c. Bread or Bread Alternate Group. One serving shall be provided of enriched or whole-grain bread, biscuits, muffins, rolls, sandwich buns, cornbread, or other hot breads. Bread alternates may include enriched or whole-grain cereals or cereal products, such as spaghetti, macaroni, rice, dumplings, pancakes, and waffles.

d. ...

e. Milk Group. One-half pint of 2 percent, 1 percent or ½ percent milk shall be provided. Coffee, tea, decaffeinated beverages, soft drinks and fruit flavored drinks may be served but cannot be used to substitute for the milk requirement.

3. Vitamins and/or mineral supplements shall not be provided with nutrition services funds.

R. Use of Nutrition Contributions. Nutrition services providers shall use all contributions to increase the number of meals served by the provider, to facilitate access to such meals, and to provide other supportive services directly related to nutrition services.

AUTHORITY NOTE: Promulgated in accordance with OAA 307(a)(13), 331, and 336.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 15:384 (May 1989), LR 16:505 (June 1990), LR 24:

Anita Thibodeaux, GOEA Nutritionist, is responsible for responding to inquiries concerning the proposed rule. Interested parties may submit written comments to the Governor's Office of Elderly Affairs, P.O. Box 80374, Baton Rouge, LA 70898-0374. Written comments will be accepted until 5 p.m. August 26, 1998.

A public hearing on this proposed rule will be held on August 26, 1998 at 412 North Fourth Street, Baton Rouge, LA

70802 at 10 a.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at this hearing.

P.F. "Pete" Arceneaux, Jr.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Title III-C Nutrition Services**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the proposed rule change will not result in costs or savings to state or local governmental units.

The proposed rule change amends §1223 of the Governor's Office of Elderly Affairs (GOEA) Policy Manual, "Title III-C Nutrition Services." It redefines the services that can be funded under Title III-C of the Older Americans Act; participant eligibility requirements; criteria for USDA support; minimum standards for service delivery; the time frame for reassessment of need for home delivered meals; packaging requirements for home delivered meals; menu standards; and mandatory menu patterns.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Area agencies on aging and nutrition service providers funded under Title III-C of the Older Americans Act are required to comply with all rules promulgated by GOEA. No additional costs or economic benefits are anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not expected to affect competition or employment.

P.F. "Pete" Arceneaux, Jr.
Executive Director
9807#041

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

Mobile Clinic (LAC 46:LXXXV.711)

Subsequent to publication of a notice of intent in the March 20, 1998, *Louisiana Register*, the Louisiana Board of Veterinary Medicine has made substantive changes to the proposed amendments to LAC 46:LXXXV.711, relating to mobile clinics. In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the board is publishing the revision to the proposed amendment. The

substantive change occurs in proposed §711(f) and (g). Under the proposed amendment, a mobile clinic is required to have examination and surgery preparation areas, but not necessarily separate examination and surgery areas as stated in March 20, 1998, *Louisiana Register*. The surgical area must be sterile, and the surgery table must have an impervious surface which can be cleaned and easily disinfected.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§711. Definitions for Classification of Practice Facilities

A. - B. ...

C. A *mobile clinic* as defined in §700 shall have a permanent base of operations with a published address, telephone facilities for making appointments or responding to emergencies, and the following.

1. A veterinarian operating or working in a mobile clinic must have a written agreement with a local veterinary hospital or clinic to provide hospitalization, surgery, or radiology if these services are not available at the mobile clinic. *Local* means within a 30-mile radius.

2. A veterinarian operating or working in a mobile clinic must have a written agreement with a local veterinary hospital or clinic to provide emergency services and must display a notice to that effect in public view. The phone number and address for this emergency service provider must be provided to each patron of the mobile clinic. *Local* means within a 30-mile radius.

3. A veterinarian operating or working in a mobile clinic must remain on site until all patients are discharged to their owners and must maintain autonomy for all medical decisions made.

4. A physical examination and history must be taken for each patient at a mobile clinic and the medical records for such patients must meet the requirements for recordkeeping in §701. These records must be maintained by the veterinarian for five years and must remain accessible to the client for that period.

5. The veterinarian operating or working in a mobile clinic is responsible for consultation with clients and referral of patients when disease is detected or suspected. The veterinarian is also responsible for information and recommendations given to the client by the mobile clinic's staff.

6. The veterinarian operating or working in a mobile clinic must have his current Louisiana veterinary license on display to the clients.

7. Operation of the veterinary medical mobile clinic requires the following:

- a. a clean, safe location;
- b. the mobile clinic must meet local sanitation regulations;
- c. lined waste receptacles;
- d. fresh, running water for cleaning and first aid;
- e. examination areas with good lighting and smooth, easily disinfected surfaces;
- f. examination and surgery preparation areas;

g. surgical area must be sterile, and the surgery table must have an impervious surface which can be cleaned and easily disinfected;

h. drugs must be kept according to federal, state, and local laws. If controlled drugs are kept on the premises, they must be kept in a locking, secure cabinet for storage and an accurate controlled substance log must be maintained and available for inspection;

i. all equipment must be kept clean and in working order;

j. the mobile clinic must have the capability to deal with sudden emergencies and should have oxygen, resuscitation drugs and equipment, treatment for "shock," and fluid administration materials readily available;

k. the mobile clinic must have all biomedical waste properly disposed of and must have documentation to prove that fact on the premises for inspection.

D.1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1331 (October 1993), amended LR 23:969 (August 1997), LR 24:

Interested parties may submit written comments to Charles B. Mann, executive director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801.

A public hearing will be held on August 26, 1998, at 9 a.m. at 263 Third Street, Suite 104, Baton Rouge, LA 70801. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. Written comments will be accepted through the close of business on August 26, 1998.

Charles B. Mann
Executive Director

9807#043

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

State Health Care Data Clearinghouse
(LAC 48:V.Chapter 151)

Under the authority of LSA R.S. 40:1300.112(D) and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. as amended, the Department of Health and Hospitals, Office of Public Health intends to amend LAC 48:V governing the practice of Preventive Health Services to add Subpart 53 entitled State Center for Health Statistics, and Chapter 151 entitled State Health Care Data Clearinghouse. This rulemaking provides procedures and guidelines for the reporting of hospital discharge data and the protection of the confidentiality of certain data elements in order to better understand patterns and trends in the availability, use and charges of health care services, and the underlying patterns of disease which necessitate these services in the state.

Title 48
PUBLIC HEALTH—GENERAL
Part V. Preventive Health Services
Subpart 53. State Center for Health Statistics
Chapter 151. State Health Care Data Clearinghouse
§15101. Purpose

Louisiana R.S. 40:1300.111 et seq. established a “state health care data clearinghouse” in the Office of Public Health with responsibility for the collection and dissemination of health care data. The legislative action was based upon a finding that as a consequence of rising health care costs, a shortage of health care professionals and health services in many areas of the state, and the concerns expressed by health care providers, consumers, third party payors, and others involved with planning for the provision of health care, there is a need to understand patterns and trends in the availability, use, and charges for these services and the underlying patterns of disease which result in these services. The statute requires that state agencies and licensed health care providers shall provide the information necessary to carry out the purpose of this law. In accordance with the statute, the collection of hospital discharge data is to be accomplished in collaboration with representatives from hospitals, health care providers, payors, data users and other state agencies. It is the purpose of these regulations to provide directions for the required collection, submittal, management and dissemination of health data and to provide for the confidentiality of the data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:

§15103. Definitions

For the purposes of these regulations, the following words and phrases when used herein shall be construed as listed below.

Act—the Act 622 of the 1997 Regular Legislative Session, LA R.S. 40: 1300.111 et seq.

Aggregate Data Set—an array of counts of patient level records, or of totals of patient level record quantities (example: Total Charges), classified by data categories (example: “~~year~~ of discharge”). Aggregate data sets may be used to present health data usefully, yet in a manner which can minimize potential for identification of confidential information, since they can be assured to have any necessary minimum cell size. Aggregate data sets shall not include the following information:

- a. facility identifiers;
- b. patient or insured identifiers;
- c. physician or other health care service provider identifiers;
- d. payor identifiers;
- e. employer identifiers.

Confidential Information—that information defined as confidential in this rule including but not limited to:

- a. employer identifiers, facility identifiers, patient or insured identifiers, payor identifiers, or physician or other service provider identifiers;
- b. information identified by the identifiers;
- c. combinations of data categories derived from part or all of the hospital discharge database information that would

identify or tend to identify an employer, facility, patient or insured person, payor, or physician or other service provider; and

d. information identified by combinations of these data categories.

Data Base—a structured repository of data, consisting of one or more related structured data tables.

Data Category—one of the typically (though not necessarily) non-unique data values of a data element, or to equivalent labels for these values. For example the data categories of the data element years may be three in number: “98,” “99,” and “00,” and may be labeled “1998,” “1999,” and “2000,” whereas the data categories of the data element patient birth date may have thousands of possible values, some of which are probably uniquely associated with exactly one person.

Data Element—a logical field of a data record or a column of a data table, and includes both the named data elements in this rule, and any other data elements obtained or created by analytic or synthetic methods. Examples: discharge year, age group, sex, or disease group.

Data Record—the row of a data table, or the set of related rows from related tables in a database.

Data Set—a structured subset of data from a database.

Department—the Louisiana Department of Health and Hospitals.

Employer Identifier—employer name, employer location/address excluding the first three digits of the ZIP code, or other information that identifies an employer.

Facility Identifier—provider name, provider telephone number, provider FAX number, federal tax number or EIN, federal tax sub ID, Medicare provider number, national provider identifier, mailing address excluding the first three digits of the ZIP code, or other information that identifies a facility.

Guide—the Hospital Discharge Data Submittal Guide included in §§15113-15129 of this rule.

Health Research—the study of patterns or trends in health or health care.

Hospital—any institution, place, building or agency, public or private, whether organized for profit or not-for-profit, which is subject to licensure as a hospital by the Louisiana Department of Health and Hospitals.

Hospital Discharge Information—all billing, medical, and personal information describing a patient, the services received, and charges billed, associated with a single inpatient hospital stay, including all elements of the Uniform Billing form, UB-92.

Hospital Discharge (Data) Record—the structured document, in paper or electronic form, of all the UB 92 data for a single hospital stay, or the data content of that document. This often will include more than one data record.

Hospital Stay or Inpatient Hospital Stay—the period, activities, events, and conditions associated with a patient, from the time of admission to a hospital, to the time of discharge from that hospital. Facilities licensed as hospitals and having different provider numbers are, for the purpose of this definition, distinct hospitals having discrete hospital stays and hospital discharges.

Intermediary—a data processing agent of a hospital, who is contracted or employed by that hospital to relay their Hospital Discharge Records to OPH in compliance with these rules.

Office, also *OPH*—the Louisiana Office of Public Health;

Panel or Research Panel—the Hospital Discharge Data Research Panel as described in §15007 of this rule.

Patient or Insured Identifier—patient name, insured's name, patient address or insured's address (specifically including P.O. Box or street address, but not city, 5-digit ZIP Code, or state), patient control number, SSN, medical record number, health insurance claim identification number, or information that would identify or tend to identify an individual patient or insured person under whom the patient may be covered.

Patient Level Data—the non-aggregate, one logical record per discharge, form of data submitted by hospitals which includes part or all of the submitted data elements or recoded data derived from submitted data elements. This term refers to both the "raw" patient level data still in the form in which it is submitted, and the "cleaned" patient level data which may have had error checking or "edits" applied or which may have been separated into the specifically named patient or insured identifier data elements and the remaining data elements. Patient level data may include all or part of the hospital discharge data record.

Payor Identifier—the payor name, payor identification, insured group name, insurance group number, or other information that identifies a payor.

Physician and Other Service Provider Identifier—attending physician name, attending physician number, operating physician name, operating physician number, other physician name, other physician number, or other information that identifies a physician or other service provider.

Publish—to make any hospital discharge information available in paper or electronic form to person(s) who are not:

- a. part of the research group authorized to use that information by the research panel as described in §15109; or
- b. OPH staff authorized to use that information.

Release—a conditional distribution of hospital discharge information for purposes authorized by this rule.

Secure Information—that information which is not subject to release by OPH or the research panel, and will not be released for any purpose. Secure information includes patient and insured identifiers.

Submit—(with respect to a submission date, and data, reports, surveys, statements or documents required to be submitted to the Louisiana Office of Public Health) to deliver, or to cause to be delivered, to the Office of Public Health, in the form and format specified, by the close of business on the prescribed date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:

§15105. Confidentiality

A. Act 622 of 1997 provides for the strictest confidentiality of data and severe penalties for violation of the Act. After

editing and compilation of data submitted under this rule, the Office of Public Health shall separate all secure information from the rest of the file. Redundant methods shall be employed to assure physical security, media security, transmission security, logical security, secure authorized access, and backup of all secure or confidential information. The collection, editing, compilation, storage, analysis and dissemination of reports or data shall be done in a manner that protects publication of information that identifies or tends to identify an individual patient.

B. Patient level data and the individual forms, computer tapes, or other forms of data collected by and furnished for the State Health Care Data Clearinghouse shall not be available for public inspection. In accordance with R.S. 40:1300.111D, any data that can be used to identify any individual patient shall not be subject to discovery in civil or criminal proceedings.

C. Data may be used as described in §§15107 and 15109 below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:

§15107. Use of Hospital Discharge Records by OPH

A. Patient level data (raw or cleaned) may be released by OPH to the data provider that submitted that particular data.

B. The office may use patient level data in fulfilling its public health mission. The office will establish procedures for secure use of the data by OPH staff.

C. The office may release patient level data (excluding secure information) for use in health research, public education, administrative and health industry research in accordance with the provisions of §15109 of this rule (approval of the Hospital Discharge Data Research Panel). In consideration of the existing information industry in Louisiana, and to assure a measure of completeness and quality of this data during the initial years of the implementation, this data will not be released during the first 12 months following discharge. Starting with year 2000 discharges, the minimum delay observed will decrease by one month per year (a discharge 1/1/2000 may be released 12/1/2000), until 2010, when a minimum delay will no longer be observed.

D. Aggregate Information

1. The office may develop and publish aggregate data reports and aggregate data as resources permit that do not disclose *confidential information* as defined in §15103 of this rule. The aggregate data reports and aggregate data shall be public information and may be distributed electronically.

2. The office may also release aggregate data on request, as resources permit. Such data may be released when it does not disclose confidential information as defined in §15103 of this rule. The data request should be made to the director of the Division of Health Information, DHH-OPH and must include:

- a. rationale for the study or data use;
- b. a summary of the research plan, including a definition of, and justification for the particular fields and records necessary for the research;
- c. signed agreement for use of data affirming that data will be used only for the purpose stated in the request, and that

no attempts will be made to combine data provided for this request with other data provided from a previous request or another source, or attempt to identify confidential information;

d. affirmation that a copy of any publication resulting from the use of the records shall be provided to the director of the Division of Health Information;

e. a signed agreement to indemnify and hold the state, DHH, and OPH, its employees, and the original providers of the patient level data harmless from any liability arising out of the authorized or unauthorized use of the data.

E. OPH Reports Containing Identifiers

1. The office may apply to the Hospital Discharge Data Research Panel (§15109 of this rule) for approval for publication of health care data reports with employer, facility, payor and/or physician and/or other healthcare provider identifiers. The application shall state the purpose of the report and a justification for releasing it with identifiers. If the panel approves the request, a copy of the report(s) shall be provided to all panel members at least one full working day prior to release for publication.

2. The criteria for approval by the panel shall include but are not limited to:

a. the report content and design reflect that the proposal is in the best interest of the public health;

b. the report reflects the use of accepted methods of data analysis;

c. the investigators/researchers are deemed qualified based on their past research, employment and education;

d. provisions to protect the confidentiality of the patient identifiers comply with §15109.B.2.

3. Panel action on office proposals to publish employer, facility, payor, physician or other healthcare provider specific reports shall be in accordance with §15109.B of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:

§15109. Use of Hospital Discharge Records in Research

Any person may apply to the office to conduct research for health surveillance, public education, administrative, or health industry purposes using patient level data. Non-aggregate data (patient level data) shall be disclosed only when the Hospital Discharge Data Research Panel has deemed that it would be impractical to perform the research with aggregate data. Only the fields and records necessary for the proposed study will be released.

1. Panel. Pursuant to R.S. 40:1300.112.B(1) and D., the Hospital Discharge Data Research Panel is established. It shall operate in accordance with the following guidelines.

a. Membership. The panel shall be composed of at least 15 members with varying background and expertise, to promote complete and adequate review of research activities commonly conducted using hospital discharge data.

i. The panel membership shall reflect sufficient experience and expertise with hospital data and/or data analysis, sensitivity to cultural diversity and privacy issues, and the professional competence necessary to review research

proposals in terms of institutional commitments and regulations, applicable law, and standards of professional conduct and practice.

ii The panel shall include the following representatives of the Office of Public Health:

(a). the state health officer or programmatic designee;

(b). the director of the Division of Health Information; and

(c). the State Registrar of Vital Records. The state health officer or his designee shall chair the panel.

iii The state health officer shall appoint 12 additional panel members representing groups and organizations that have knowledge and expertise in fields related to research using health care data. Accordingly, the appointees will include a representative of health care consumers, a representative of payors, private hospital representation, and members of the following organizations:

(a). Louisiana Health Care Review Inc.;

(b). Louisiana Health Information Management Association;

(c). Louisiana Hospital Association;

(d). Louisiana State Medical Society;

(e). Louisiana State University;

(f). Metropolitan Hospital Council of New Orleans;

(g). Rural Hospital Coalition;

(h). Tulane University; and

(i). VHA Gulf States.

b. Panel Meetings. The state health officer or designee shall convene panel meetings. The panel will review research requests on a quarterly basis or as needed. Regular meeting dates shall be communicated to panel members in writing at least 21 calendar days prior to the meeting. If any emergency or ad-hoc meetings are required, meeting dates for these additional meetings shall be communicated to panel members in writing at least seven calendar days prior to the meeting.

c. Panel Quorum. A quorum shall require the presence of eight members. A majority of the members present must concur via a roll call vote for the panel to take action on the approval or disapproval of any research application.

d. Panel Records. Adequate documentation of the panel activities shall be maintained including the following:

i. copies of all research and special report proposals reviewed, including attachments;

ii minutes of all panel meetings shall be in sufficient detail to show attendance at meetings, actions taken by the panel, the vote on the actions including the number of members voting for, against or abstaining, the basis for requiring changes in or disapproving research, and a written summary of controversial issues and their resolution;

iii copies of all correspondence;

iv the records required by these rules shall be retained for at least three years after completion of the research. These records shall be exempt from the Public Records Law.

2. Research Using Patient Level Records

a. Application. A request for use of hospital discharge information excluding secure information in research shall be in writing and shall be addressed to the state health officer. The data request must include:

i. a complete experimental protocol including health objectives, rationale for the study, design detail and scientific basis for selection of subjects;

ii. a summary of the protocol including a definition of, and justification for, the particular fields and records necessary for the research;

iii. copy of the informed consent form and an outline of the consent process, if required by the panel (for proposed follow-back research or contact with employers, payors, facilities, physicians or other healthcare providers);

iv. provisions to fully protect the confidentiality of the data and the privacy of patients and insured persons related to the patient;

v. affirmation that data files provided by OPH to the applicant will not be re-released to other researchers or anyone else not connected to the specific study for which the data is released;

vi. résumés of all investigators identifying their specific qualifications to do the research proposed, listing educational degrees and societies, certifying boards and academic institutions which have recognized their competence by granting membership, diploma, or title, previous work in the subject area and employment;

vii. approval from an institutional review board for this study or approval from an educational department chairman where the applicant is employed by or associated with an institution which requires such approval;

viii. affirmation that a report of the findings resulting from the use of the records shall be provided to the state health officer;

ix. a signed agreement to indemnify and hold the office, its employees, panel members, and the original providers of the patient level data harmless from any liability arising out of the authorized or unauthorized use of the data.

b. Use of employer, facility, payor, physician or other healthcare provider identifiers. Researchers requesting any of these identifiers must additionally affirm that none of these identifiers or combinations of elements that identify or tend to identify any of these parties will be published or otherwise disclosed without the specific approval of the panel. If any physicians or other healthcare providers will be identified in a proposed publication, the panel must receive a copy of the study or report prior to submission for publication. Following receipt of this copy, the panel will require a two-week waiting period prior to final approval for publication.

c. Confidentiality of Data Used for Research. The researcher shall establish reasonable administrative, technical and physical safeguards to prevent unauthorized use or disclosure of the records. At the end of the project all confidential information will be destroyed.

d. Criteria for Approval of Research. The criteria for the approval of research shall include but are not limited to:

i. the study objective and design reflect that the proposal is in the best interest of the public health;

ii. the selection of subjects is made on a scientific basis;

iii. the investigators/researchers are deemed qualified based on their past research, employment and education or other appropriate credentials;

iv. where appropriate, approval of an institutional review board has been obtained;

v. provisions to protect the confidentiality of the data and subjects comply with §15109.B.2 of this rule;

vi. the informed consent process and forms follow the guidelines required in these rules and will be appropriately documented as required.

e. Panel Review and Notification. The panel will review research requests on at least a quarterly basis. Following review, the panel shall notify requesters in writing of the decision to approve or disapprove the proposed study or modifications required to secure approval of the research activity. If the panel disapproves a request, it shall include in its written notification a statement of the reasons for its decision and give the investigator/researcher an opportunity to request reconsideration in writing.

f. Requests for Reconsideration. Requests for reconsideration must be filed within 30 days of the date appearing on the notification. The panel shall schedule a hearing of the appeal to be held within 90 days of the date of receipt of the appeal. The principal investigator/ researcher has the right to appear to defend the proposal at a reconsideration hearing. If on reconsideration the research proposal is denied, the requester shall have a right to appeal the panel's decision in accordance with the procedure outlined below.

g. Appeal of Data Use Denial. Any person who submits a research, educational or administrative use proposal to the panel that is denied shall have a right to petition for judicial review of the panel's final action in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.). This remedy shall be the exclusive means of appealing the action of the panel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:

§15111. Incorporation by Reference

The following documents are incorporated by reference. They are available for public review at the State Center for Health Statistics, Office of Public Health.

1. International Classification of Diseases, Clinical Modifications 9. Copies are available from the World Health Organization, P.O. Box 5284, Church Street Station, New York, New York 10249.

2. International Classification of Diseases, Clinical Modifications 10 (due for publication, December 1998). Copies will be available from the World Health Organization, P.O. Box 5284, Church Street Station, New York, New York 10249.

3. Louisiana Uniform Billing Training Manual, UB-92, including final addenda of July 21, 1993. Copies are available from the Louisiana Hospital Association, P.O. Box 80720, Baton Rouge, LA 70898-0026.

4. Uniform Hospital Billing Form 1992 (UB92/HCFA-1450). Copies are available from the Office of Public Affairs, Health Care Financing Administration Humphrey Building, Room 428-H, 200 Independence Avenue S.W., Washington, D.C. 20201.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:

§15113. Hospital Discharge Data Submittal Guide—General

A. Data Reporting Source. All facilities operated and licensed as a hospital in the state of Louisiana by the Louisiana Department of Health and Hospitals will report “discharge data” to the Office of Public Health (OPH) for each patient admitted as an inpatient. A failure to report may result in action by the licensing authority.

B. Reporting Responsibilities

1. The single billing discharge data record must be submitted for the reporting period within which the discharge occurs. If a claim will not be submitted to a provider or carrier for collection (e.g., charitable service), a hospital discharge data record must still be submitted to OPH, with the normal and customary charges, as if the claim was being submitted.

2. Multiple Discharges. For a patient with multiple discharges, submit one discharge data record for each discharge.

3. Multiple Billing Claims. For a patient with multiple billing claims, the facility should submit all data related to a discharge in one of two ways:

a. consolidate the multiple billings into one discharge data record for submittal for the reporting period within which the discharge occurs; or

b. submit each interim billing claim for the reporting period in which the claim is generated.

4. A hospital may submit discharge data directly to OPH, or may designate an intermediary, such as a commercial data clearinghouse. Use of an intermediary does not relieve the hospital from its reporting responsibility. In order to facilitate communication and problem solving, each hospital should designate a contact person and a backup for the contact person. Provide the names, telephone numbers, and job titles of the persons assigned this responsibility to the Office of Public Health, Center for Health Statistics, on forms provided by OPH.

C. Confidentiality of Data. Act 622 provides for the strictest confidentiality of data and severe penalties for the violation of the Act. Any information collected from hospitals that identifies a patient or person under whom the patient is insured cannot be released. In addition, physician, facility, payor or employer identifiers cannot be released without Research Panel approval. The Office of Public Health needs patient-specific information to complete analyses. The office will take every prudent action to ensure the confidentiality and security of the data submitted. Procedures include, but are not limited to, physical security and monitoring, separation of personal identifiers from the analytical file, access to the files by authorized personnel only, passwords and encryption. Not all measures taken are documented or mentioned in this guide

to further protect the data. After receiving and editing the data, OPH will separate personal patient identifiers (i.e., name, street address or P.O. Box, and SSN or other patient number). The database edits system will assign a unique nonpersonal key in order to maintain patient level data (i.e., a patient with multiple discharges can be tracked within and among hospitals.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:

§15115. Guide—Hospital Discharge Data Submittal Schedule

Each licensed Louisiana hospital which collects Hospital Discharge Information, as set forth in this rule, shall submit Hospital Discharge Records to the Office of Public Health in a manner that complies with the provisions of the guidelines here included for all hospital discharges occurring on or after January 1, 1998. While all hospitals are responsible for submitting their data to the Office of Public Health, some may contract with third-party intermediaries. All hospitals or their intermediaries will submit data to the Office of Public Health according to the reporting schedule listed below. See the section on use of intermediaries for further details.

1. Submittal Schedule. Discharge data records will be submitted to the Louisiana Office of Public Health as specified below.

a. Reporting Period. Hospitals (or their representatives) must generate and submit their data to OPH quarterly, excepting the first year (1998), in which data may be submitted semiannually. Monthly submittal via electronic transfer is also encouraged.

b. Data Source. The submittal file must be created from the current transaction file or an equivalently cumulatively updated claim file and the submittal must be received by OPH no later than the dates below. Earliest practical submission of complete data is requested.

Note: It is understood that data for a given claim may not be complete during the first three-month post-discharge.

2. Reporting Schedules by Year

Reporting Schedules by Year	
Person's Date of Discharge Is	Data Must be Received By
1998	
January 1 through June 30, 1998	December 31, 1998
July 1 through December 31, 1998	June 30, 1999
1999	
January 1 through March 31	September 15, 1999
April 1 through June 30	December 15, 1999
July 1 through September 30	March 15, 2000
October 1 through December 31	June 15, 2000
2000 and after	
January 1 through March 31	August 31 (same year)

April 1 through June 30	November 30 (same year)
July 1 through September 30	February 28 (following year)
October 1 through December 31	May 31 (following year)

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:

§15117. Guide—Use of Data Processing Intermediaries

A. Third-party intermediaries may be utilized by hospitals for the delivery of data to the Office of Public Health. Intermediaries must be registered with OPH on registration forms provided by the Office. Additions and deletions to the intermediary's list of hospitals represented must be submitted at least 10 days prior to the submittal schedule reporting due date.

B. Hospitals shall notify the Office by January 1 of each year if they plan to submit the required data to the Office through a third-party intermediary that is registered with the Office. Hospitals selecting this option are responsible for ensuring that the submitted data conform to specifications contained in the Guide. These specifications include but are not limited to the format, timeliness, and quality criteria of completeness, validity and consistency outlined in the Guide. The third-party intermediary is responsible to the hospital for ensuring that the data are submitted to the Office in conformance with specifications contained in the Guide.

C. The following additional requirements and information apply to intermediaries delivering data to OPH:

1. Data may be delivered in any number of submittals (i.e., one per hospital, several hospitals combined, or all hospitals combined in one submittal), but the minimum unit of data submittal is all discharge records from one hospital per submittal time period.

2. Data may be submitted via any approved transfer media - declared at the time of registration.

3. Data may be submitted in any approved data format - declared at the time of registration.

4. The intermediary must submit data for three or more hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:

§15119. Guide—Extensions and Waivers

All hospitals will submit discharge data in a form consistent with the requirements unless an extension or waiver has been granted. Extensions may be granted when the hospital documents that unforeseen difficulties, such as technical problems, prevent compliance. Waivers may be granted when the hospital documents the need for data format changes before it can begin collecting and submitting specific data elements. Waivers will also be granted upon request for difficulties that prevent compliance for the time period January 1 to June 30, 1998. Requests for extensions or waivers should be in writing

and be directed to: Director, Division of Health Information, Louisiana Office of Public Health, 325 Loyola Avenue, Suite 503, New Orleans, LA 70112. Phone: (504) 568-7708 FAX: (504) 568-6594.

1. Extension of Time for Data Submittal

a. Any hospital which determines it temporarily will be unable to comply with a data submittal date or with data submittal time lines established in a previously submitted plan of correction may apply to the Office for an extension. An application for extension should be submitted at least 15 working days prior to the data submission deadline. The application for extension shall reference the relevant section number(s) and the relevant text of the rule or the documents incorporated by reference under §15111. The application for extension shall include specific reasons why the provider cannot comply with the rule in the required time frame, a specific plan sufficient to correct the problem, and the proposed data submission date.

b. The office shall act upon an application for extension of time within 10 working days of receiving the written request. Failure of the office to act on the application shall be deemed as a grant of the extension.

c. A denial of the application for extension shall be appealable to the assistant secretary of the Office of Public Health. The appeal shall be filed within seven days of receipt of the denial letter. The assistant secretary shall act on the request within seven days of its receipt and his/her action shall be final.

2. Waivers of Data Requirements

a. Any hospital which determines it will be unable to comply with any of the provisions of this rule or with the provisions of a previously submitted plan of correction, for submission of particular data elements of the required format, quality or completeness for specific discharge periods, may apply to the office for a waiver. A data element-based waiver may be granted for the submission of specific data elements for specific durations and does not in this case relieve the hospital of the obligation to submit other required data elements in a timely manner. A general waiver may also be granted for compliance with the required data format. An Application for Waiver should be submitted at least 30 working days prior to the data submission deadline on a form provided by the office. In every case, the Application for Waiver shall reference the relevant section number(s) and the relevant text of the rule or the documents incorporated by reference under §15111. The Application for Waiver shall include specific reasons why the hospital cannot comply with the rule, a specific plan sufficient to correct the problem(s), and the earliest date(s) when the hospital will be compliant. Waivers will be granted upon determination of a satisfactory application during the first year, and as necessary thereafter.

b. The office shall act upon an Application for Waiver within 20 days of receiving the written request. Failure of the office to act on the application shall be deemed as a grant of the waiver.

c. A denial of the Application for Waiver shall be appealable to the assistant secretary of the Office of Public Health. The appeal shall be filed within seven days of receipt of the denial letter. The assistant secretary shall act on the

request within seven days of its receipt and his/her action shall be final.

d. Failure of the hospital to submit an acceptable plan or to follow an accepted plan shall be considered continued and substantial noncompliance with this rule unless determined otherwise by the assistant secretary of the Office of Public Health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:

§15121. Guide—Data Errors and Certification

Hospitals will review the discharge data records prior to submittal for accuracy and completeness. Correction of invalid records and validation of aggregate tabulation are the responsibility of the hospital. All hospitals will certify the data submitted for each reporting period in the manner specified and will annually review summary reports before statistical analyses are published by the Center for Health Statistics, Louisiana Office of Public Health.

1. Error Correction

a. The hospital is responsible for submitting accurate and complete data in one of the specified formats. The state may identify errors for hospital review, comment, and correction when applicable. The records with errors will be identified in a simplified format providing record identification and an indication or explanation of the error. The error report will be sent by certified mail or e-mail to the attention of the individual designated to receive the correspondence at the hospital.

b. In the event 5 percent or more of the records per hospital in a submittal period are in error, the submittal for that hospital will be rejected. A record is in error when one or more Required Data Elements are missing or in error (excepting those elements for which a waiver has been granted). Notification of the rejection will accompany the error report and will be sent by certified mail to the attention of the individual designated to receive the correspondence at the hospital.

c. After the submittal has been corrected, the submittal is to be resubmitted in its entirety and original format, within one month of receipt, to the Center for Health Statistics, Louisiana Office of Public Health. This correction cycle may repeat.

2. Certification and Review

a. Following receipt of a data submittal and completion of any needed error correction, the Center for Health Statistics will send the hospital-designated contact a Discharge Data Summary Report containing the total number of records received for the reporting period, by discharge disposition, and by payor class for each hospital.

b. The hospital-designated responsible contact will validate in writing the accuracy of the Discharge Data Summary Report and verify that the data sent were complete for that reporting period. Regardless of any waiver granted, the hospital will provide an estimate of the number of any unreported discharges for the reporting period. The signed validation will be returned to the Center for Health Statistics, Louisiana Office of Public Health within 10 working days.

3. Noncompliance

a. Upon written notification of noncompliance by the office, the chief executive officer shall have 10 working days following receipt of the written notification of noncompliance to provide the office with a written plan for correcting the deficiency. The plan of correction shall include specific reasons why the hospital cannot comply with the rule in the required time frame, a specific plan sufficient to correct the problem, and the proposed data submission date.

b. Failure of the hospital to submit an acceptable plan or to follow an accepted plan shall be considered continued and substantial noncompliance with this rule unless determined otherwise by the assistant secretary of the Office of Public Health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:

§15123. Guide—Data Submittal Specifications

Currently, data may be submitted by modem (the preferred method), PC diskette, CD-ROM, magnetic tape (reel), or electronic media to be determined by OPH. Additional media or modes of transfer will be announced by OPH as they become available. Data submittals not in compliance with transfer media or format specifications will be rejected unless approval is obtained prior to the scheduled due date from the Center for Health Statistics. Media labeling and data submittal specification updates will be posted on the OPH Web page.

1. Transfer. Data submittal standards shall encourage the use of electronic transfer of database files (structure to be provided by OPH) or structured ASCII files via telecommunications. Editing of data prior to submittal is encouraged and assistance from OPH will be provided.

2. Address for Data Submittal: Center for Health Statistics, Louisiana Office of Public Health, 325 Loyola Avenue, Suite 503, New Orleans, La 70112; or: LAHIDD@dhhmail.dhh.state.la.us.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:

§15125. Guide—Data Elements

Listed below are required and conditionally required data elements. Submission of any other data elements is optional; hospitals do not need to suppress or strip other elements appearing in their claims files. All elements submitted will be treated confidentially.

1. Required Data Elements. If a hospital is currently or temporarily unable to provide any of the data elements listed here, the hospital must apply for a waiver or extension, as detailed in §15119 of this rule.

Data Element	Form Locator	1300 Record Number	1450	
			Record Type	Record Number
Patient Control Number • assigned by Provider	3	1	20	3
Type of Bill	4	2	40	4

Federal Tax ID (Facility EIN) • with Sub ID Number if applicable	5	3 165	10	4 5
Statement Covers Period From	6	4	20	19
Statement Covers Period Thru	6	5	20	20
Patient Name	12	(none)	20	4-6
Patient Address	13	6 (zip only)	20	12-16
Patient Date of Birth	14	7	20	8
Patient Sex	15	8	20	7
Admission Date	17	9	20	17
Type of Admission	19	11	20	10
Source of Admission	20	12	20	11
Patient Status at time of discharge	22	13	20	21
Medical/Health Record Number	23	14	20	25
Revenue Codes • Include all listed • Must be valid UB92 codes	42	Odd Number 's 15-59	60 50	4, 13, 14, 4, 11, 12, 13
Units of Service • Include all listed	46	Odd Number 's 97-141	60	8, 13, 14
Total Charges • Include all listed	47	Even Number 's 16-60	60 50	9 7
Payor Classification • Include all listed • HCFA Payor ID number preferred	50	156, 157, 158	30	5
Principal Diagnosis Code	67	69	70	4
Other Diagnosis codes • Include all listed	68-75	70-77	70	5-12
Admitting Diagnosis Code	76	78	70	25
External cause of injury code (E-code) • Must contain data if possible	77	79	70	26
Principal Procedure Code and Date	80	80-81	70	13-14
Other Procedure Codes and Dates • Include all listed	81	82-91	70	15-24
Attending Physician ID • State License Number	82	92	80	5
Operating Physician Number • State LicenseNumber • Required if present	83	93	80	6
Other Physician ID • State LicenseNumber • Required if present	84	94	80	7-8

Patient Social Security Number	60 Only if insured	161	22	5a
Patient Race	none	155	22	7a
*Number of Claims	N/A	N/A	95	6
*Record Type	N/A	N/A	all	1
*Sequence Number	N/A	N/A	21-70, 72, 80-81	2

a. Elements marked with an asterisk are required for submittals of the electronic 1450 only; they are included because they are essential to the 1450.

b. The definitions of most data elements referred to in this rule can be found in the Louisiana UB-92 Users Manual referenced in §15109 of this rule. Hospitals using data sources other than uniform billing should evaluate their definitions for agreement with the definitions specified in this Guide and the Louisiana UB-92 Users Manual. The exceptions to referenced definitions are listed below.

i. Patient's Race. This alphanumeric one-character element contains race category information based on self-identification, which is to be obtained from the patient, a relative, or a friend. The hospital should not categorize the patient based on observation or personnel judgment. The patient may choose not to provide the information. If the patient chooses not to answer, the hospital should enter the code for unknown. If the hospital fails to request the information, the field should be space filled. Code as follows: 1 = Native American or Alaskan Native: A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition. 2 = Asian or Pacific Islander: A person having origins in any of the peoples of the Far East, South East Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa. 3 = African American/Black: A person having origins in any of the black racial groups of Africa. 4 = Caucasian/White: A person having origins in any of the Caucasian peoples of Europe, North Africa, or the Middle East. 5 = Other: Any possible options not covered in the above categories. 6 = Unknown: A person who chooses not to answer the question. Blank Space: The hospital made no effort to obtain the information.

ii. Patient Social Security Number. Numeric, 10-character entry containing the Social Security Number of the patient receiving care. This field is to be right justified with zeroes to the left to complete the field. The format of SSN is 0123456789 without hyphens. If the patient is a newborn, use the mother's SSN. If a patient does not have a social security number fill with zeroes. The field is edited for a valid entry.

2. Additional Data Elements Required if Available. These elements are required if the facility systematically collects the data in the ordinary course of operations as part of the facility's standard operating procedures and that data is readily available for inclusion in the claim file.

Date Element	Form Locator	1300 Record Number	1450	
			Record Type	Record Number
Provider Name	1	(none)	10	12
Provider Address • Must include zip code and city	1	(none)	10	13-16
Marital Status	16	(none)	20	9
Admission Hour	18	10	20	18
Discharge Hour	21	166	20	22
Provider Number	51	62,144,149	30	24
Insured's Name	58	(none)	30	12-14
Patient's Relationship to the Insured	59	63, 145, 150	30	18
(Insured's) Certificate/SSN/Health Insurance Claim/Identification Number	60	64, 146, 151	30	7
Insured Group Name	61	(none)	30	11
Insurance Group Number	62	65, 147, 152	30	10
Treatment Authorization Code	63	(none)	40	5-7
Employment Status Code	64	66	30	19
Employer Name or EIN	65	67	31 21	9 4
Employer Location	66	68 (zip only)	31 21	10-13 5-8

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:

§15127. Guide—Record Formats

The accepted data record formats are the UB-92 1450 version 4.1 format and the UB-92 1300 flat file format. The definition specified for each data element is in general agreement with the definition in the UB-92 Users Manual. Hospitals using data sources other than uniform billing should evaluate definitions for agreement with the definitions specified in this Guide and the UB-92 Users Manual. See §§15125 and 15127.B.3 to identify possible differences between standard referenced formats and requirements under this rule.

1. UB-92 1450 Version 4.1 Record Specification. The UB-92 1450 claim “record” is made up of a series of 192-character physical records, as listed in the Louisiana UB-92 Training Manual. Record Types not specified in the required data elements list are requested but are not required for submittal.

2. UB-92 1300 Record Specification. The UB-92 1300 flat file contains one record per discharge, except in the case of multi-page claims. However, the standard 1300 format does not contain some fields that are found on the 1450 format. The 1300 record format is included in §15127.A.2.c below.

a. Use of Multi-Page Claims. All data except revenue code and charge fields should be duplicated on successive records. All available revenue and charge fields should be completely filled before using additional records. The last entry must be the Total Charge (001) Revenue Code and the Charge Amount must be the total of all previous entries. Any remaining revenue and charge fields must be blank or zero filled. No zero or space filled fields should precede the 001 entry.

b. Exceptions to 1300 Format. Inclusion of the 1300 format as an accepted data format required the addition of data elements not found in the version currently used in Louisiana. The following fields indicate the locations for the additional data elements:

Number	Field Name	Form Locator
10	Admission Hour	FL18
14	Medical Record Number	FL23
78	Admitting Diagnosis	FL76
93	Operating Physician Number	FL83
153	Infant Birth Weight	(none)
154	Infant APGAR Score	(none)
155	Patient Race	(none)

c. 1300 Discharge Record. The record layouts that follow will provide the following information.

i. Record Number: Sequentially assigned record number (This is not the Form Locator).

ii. Field Name—the name of the data element (field).

iii. Picture—this is the COBOL picture. Pic X is initialized to blanks and Pic 9 is initialized to zeroes. All money and date fields are Pic 9.

iv. Justification—indicates how the data field is justified (left or right).

v. Start Position—leftmost position in the record.

vi. End Position—rightmost position in the record.

vii. Form Locator—this is the number found on the UB-92 paper form associated with the given field.

Record Number	Field Name	Picture	Justification	Start	End	Form Locator
1.	Patient Control Number	X(20)	L	1	20	FL03
2.	Type of Bill	9(3)	R	21	23	FL04
3.	Federal Tax Number (EIN)	X(10)	L	24	33	FL05
4.	Statement Covers Period: FROM MMDDYYYY	9(8)	R	34	41	FL06
5.	Statement Covers Period: TO MMDDYYYY	9(8)	R	42	49	FL06

6.	Patient Address Zip Code	X(9)	L	50	58	FL13
7.	Patient Date of Birth MMDDYYYY	9(8)	R	59	66	FL14
8.	Patient Sex	X(1)	L	67	67	FL15
9.	Admission Date	9(8)	R	68	75	FL17
10.	Admission Hour	9(2)	R	76	77	FL18
11.	Type of Admission	X(1)	L	78	78	FL19
12.	Source of Admission	X(1)	L	79	79	FL20
13.	Patient Status	9(2)	R	80	81	FL22
14.	Medical Record Number	X(17)	L	82	98	FL23
15.	Revenue Code Line 1	9(4)	R	99	102	FL42
16.	Total Charges by Revenue 1	S9(8)V99	R	103	112	FL47
17.	Revenue Code Line 2	9(4)	R	113	116	FL42
18.	Total Charges by Revenue 2	S9(8)V99	R	117	126	FL47
19.	Revenue Code Line 3	9(4)	R	127	130	FL42
20.	Total Charges by Revenue 3	S9(8)V99	R	131	140	FL47
21.	Revenue Code Line 4	9(4)	R	141	144	FL42
22.	Total Charges by Revenue 4	S9(8)V99	R	145	154	FL47
23.	Revenue Code Line 5	9(4)	R	155	158	FL42
24.	Total Charges by Revenue 5	S9(8)V99	R	159	168	FL47
25.	Revenue Code Line 6	9(4)	R	169	172	FL42
26.	Total Charges by Revenue 6	S9(8)V99	R	173	182	FL47
27.	Revenue Code Line 7	9(4)	R	183	186	FL42
28.	Total Charges by Revenue 7	S9(8)V99	R	187	196	FL47
29.	Revenue Code Line 8	9(4)	R	197	200	FL42
30.	Total Charges by Revenue 8	S9(8)V99	R	201	210	FL47
31.	Revenue Code Line 9	9(4)	R	211	214	FL42
32.	Total Charges by Revenue 9	S9(8)V99	R	215	224	FL47
33.	Revenue Code Line 10	9(4)	R	225	228	FL42

34.	Total Charges by Revenue 10	S9(8)V99	R	229	238	FL47
35.	Revenue Code Line 11	9(4)	R	239	242	FL42
36.	Total Charges by Revenue 11	S9(8)V99	R	243	252	FL47
37.	Revenue Code Line 12	9(4)	R	253	256	FL42
38.	Total Charges by Revenue 12	S9(8)V99	R	257	266	FL47
39.	Revenue Code Line 13	9(4)	R	267	270	FL42
40.	Total Charges by Revenue 13	S9(8)V99	R	271	280	FL47
41.	Revenue Code Line 14	9(4)	R	281	284	FL42
42.	Total Charges by Revenue 14	S9(8)V99	R	285	294	FL47
43.	Revenue Code Line 15	9(4)	R	295	298	FL42
44.	Total Charges by Revenue 15	S9(8)V99	R	299	308	FL47
45.	45 Revenue Code Line 16	9(4)	R	309	312	FL42
46.	Total Charges by Revenue 16	S9(8)V99	R	313	322	FL47
47.	Revenue Code Line 17	9(4)	R	323	326	FL42
48.	Total Charges by Revenue 17	S9(8)V99	R	327	336	FL47
49.	Revenue Code Line 18	9(4)	R	337	340	FL42
50.	Total Charges by Revenue 18	S9(8)V99	R	341	350	FL47
51.	Revenue Code Line 19	9(4)	R	351	354	FL42
52.	Total Charges by Revenue 19	S9(8)V99	R	355	364	FL47
53.	Revenue Code Line 20	9(4)	R	365	368	FL42
54.	Total Charges by Revenue 20	S9(8)V99	R	369	378	FL47
55.	Revenue Code Line 21	9(4)	R	379	382	FL42
56.	Total Charges by Revenue 21	S9(8)V99	R	383	392	FL47
57.	Revenue Code Line 22	9(4)	R	393	396	FL42
58.	Total Charges by Revenue 22	S9(8)V99	R	397	406	FL47
59.	Revenue Code Line 23	9(4)	R	407	410	FL42
60.	Total Charges by Revenue 23	S9(8)V99	R	411	420	FL47

61.	Filler	X(25)		421	445	
62.	First Provider Number (Payor)	X(13)	L	446	458	FL51A
63.	Patient's Relationship to Insured	X(2)	L	459	460	FL59A
64.	Certificate/SocSec cNumber/ Health Insurance Claim/ Identification Number	X(19)	L	461	479	FL60A
65.	Insurance Group Number	X(20)	L	480	499	FL62A
66.	Employment Status Code	X(1)	L	500	500	FL64
67.	Employer Name	X(24)	L	501	524	FL65
68.	Employer Zip Code	X(9)	L	525	533	FL66
(For Diagnosis and Procedure Codes (69-90)-omit decimal)						
69.	Principal Diagnosis Code	X(6)	L	534	539	FL67
70.	Other Diagnosis Code 1	X(6)	L	540	545	FL68
71.	Other Diagnosis Code 2	X(6)	L	546	551	FL69
72.	Other Diagnosis Code 3	X(6)	L	552	557	FL70
73.	Other Diagnosis Code 4	X(6)	L	558	563	FL71
74.	Other Diagnosis Code 5	X(6)	L	564	569	FL72
75.	Other Diagnosis Code 6	X(6)	L	570	575	FL73
76.	Other Diagnosis Code 7	X(6)	L	576	581	FL74
77.	Other Diagnosis Code 8	X(6)	L	582	587	FL75
78.	Admitting Diagnosis	X(6)	L	588	593	FL76
79.	External Cause of Injury (E-Code)	X(6)	L	594	599	FL77
80.	Principal Procedure Code	X(7)	L	600	606	FL80
81.	Principal Procedure Date MMDDYY	9(6)	R	607	612	FL80
82.	Other Procedure 1: Code	X(7)	L	613	619	FL81
83.	Other Procedure 1 : Date MMDDYY	9(6)	R	620	625	FL81
84.	Other Procedure 2 : Code	X(7)	L	626	632	FL81

85.	Other Procedure 2 : Date MMDDYYYY	9(6)	R	633	638	FL81
86.	Other Procedure 3 : Code	X(7)	L	639	645	FL81
87.	Other Procedure 3 : Date MMDDYY	9(6)	R	646	651	FL81
88.	Other Procedure 4 : Code	X(7)	L	652	658	FL81
89.	Other Procedure 4 : Date MMDDYY	9(6)	R	659	664	FL81
90.	Other Procedure 5 : Code	X(7)	L	665	671	FL81
91.	Other Procedure 5 : Date MMDDYY	9(6)	R	672	677	FL81
92.	Attending Physician Number	X(22)	L	678	699	FL82
93.	Other Physician Number	X(22)	L	700	721	FL83
94.	Other Physician Number	X(22)	L	722	743	FL84
95.	Filler	X(2)	L	744	745	
96.	Century Flag Patient's DOB 0=Birth Year 1900 1=Birth Year<1900	9(1)	R	746	746	
(Dates of Service-even numbers from 97-142; MMDDYY)						
97.	Units of Service Line 1	9(7)	R	747	753	FL46
98.	Date of Service Line 1	9(6)	R	754	759	FL45
99.	Units of Service Line 2	9(7)	R	760	766	FL46
100.	Date of Service Line 2	9(6)	R	767	772	FL45
101.	Units of Service Line 3	9(7)	R	773	779	FL46
102.	Date of Service Line 3	9(6)	R	780	785	FL45
103.	Units of Service Line 4	9(7)	R	786	792	FL46
104.	Date of Service Line 4	9(6)	R	793	798	FL45
105.	Units of Service Line 5	9(7)	R	799	805	FL46
106.	Date of Service Line 5	9(6)	R	806	811	FL45
107.	Units of Service Line 6	9(7)	R	812	818	FL46
108.	Date of Service Line 6	9(6)	R	819	824	FL45

109.	Units of Service Line 7	9(7)	R	825	831	FL46
110.	Date of Service Line 7	9(6)	R	832	837	FL45
111.	Units of Service Line 8	9(7)	R	838	844	FL46
112.	Date of Service Line 8	9(6)	R	845	850	FL45
113.	Units of Service Line 9	9(7)	R	851	857	FL46
114.	Date of Service Line 9	9(6)	R	858	863	FL45
115.	Units of Service Line 10	9(7)	R	864	870	FL46
116.	Date of Service Line 10	9(6)	R	871	876	FL45
117.	Units of Service Line 11	9(7)	R	877	883	FL46
118.	Date of Service Line 11	9(6)	R	884	889	FL45
119.	Units of Service Line 12	9(7)	R	890	896	FL46
120.	Date of Service Line 12	9(6)	R	897	902	FL45
121.	Units of Service Line 13	9(7)	R	903	909	FL46
122.	Date of Service Line 13	9(6)	R	910	915	FL45
123.	Units of Service Line 14	9(7)	R	916	922	FL46
124.	Date of Service Line 14	9(6)	R	923	928	FL45
125.	Units of Service Line 15	9(7)	R	929	935	FL46
126.	Date of Service Line 15	9(6)	R	936	941	FL45
127.	Units of Service Line 16	9(7)	R	942	948	FL46
128.	Date of Service Line 16	9(6)	R	949	954	FL45
129.	Units of Service Line 17	9(7)	R	955	961	FL46
130.	Date of Service Line 17	9(6)	R	962	967	FL45
131.	Units of Service Line 18	9(7)	R	968	974	FL46
132.	Date of Service Line 18	9(6)	R	975	980	FL45
133.	Units of Service Line 19	9(7)	R	981	987	FL46
134.	Date of Service Line 19	9(6)	R	988	993	FL45
135.	Units of Service Line 20	9(7)	R	994	1000	FL46

136.	Date of Service Line 20	9(6)	R	1001	1006	FL45
137.	Units of Service Line 21	9(7)	R	1007	1013	FL46
138.	Date of Service Line 21	9(6)	R	1014	1019	FL45
139.	Units of Service Line 22	9(7)	R	1020	1026	FL46
140.	Date of Service Line 22	9(6)	R	1027	1032	FL45
141.	Units of Service Line 23	9(7)	R	1033	1039	FL46
142.	Date of Service Line 23	9(6)	R	1040	1045	FL45
143.	Filler	X(25)	L	1046	1070	
144.	Second Provider Number (Payor)	X(13)	L	1071	1083	FL51B
145.	Patient's Relationship to Insured	X(2)	L	1084	1085	FL59B
146.	Certificate/SocSec Number/ Health Insurance Claim/ Identification Number	X(19)	L	1086	1104	FL60B
147.	Insurance Group Number	X(20)	L	1105	1124	FL62B
148.	Filler	X(25)	L	1125	1149	
149.	Third Provider Number (Payor)	X(13)	L	1150	1162	FL51C
150.	Patient's Relationship to Insured	X(2)	L	1163	1164	FL59C
151.	Certificate/SocSec Number/ Health Insurance Claim/ Identification	X(19)	L	1165	1183	FL60C
152.	Insurance Group Number	X(20)	L	1184	1203	FL62C
153.	Infant Birth Weight (in grams)	9(4)	R	1204	1207	
154.	Infant APGAR Score	9(4)	R	1208	1211	
155.	Patient Race	9(1)	R	1212	1212	
156.	Primary Payor Code	X(2)	L	1213	1214	FL50A
157.	Second Payor Code	X(2)	L	1215	1216	FL50B
158.	Third Payor Code	X(2)	L	1217	1218	FL50C
159.	Medicaid Provider Number	X(12)	L	1219	1230	FL51

160.	Medicare Provider Number	X(12)	L	1231	124 2	FL51
161.	Patient Social Security Number	X(9)	L	1243	125 1	FL60
162.	Primary Payor Carrier ID Code	X(4)	L	1252	125 5	
163.	Second Payor Carrier ID Code	X(4)	L	1256	125 9	
164.	Third Payor Carrier ID Code	X(4)	L	1260	126 3	
165.	Federal Tax Sub ID.	X(4)	L	1264	126 7	
166.	Filler	X(2)	L	1268	126 9	
167.	Filler	X(31)	L	1270	130 0	

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:

Interested persons may submit written comments within 20 days of this publication at the following address: Mark Shields, MD, MS, MPH, Director, Division of Health Information, DHH-OPH, P.O. Box 60630, New Orleans, Louisiana 70160.

David Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: State Health Care Data Clearinghouse**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated implementation cost to state government is \$376,468. The expenditure will staff and support the Hospital Discharge Data System. Data preparation and submission costs of state and local service districts are included in the Estimated Costs and/or Benefits summarized below. The implementation cost includes a publication expenditure of \$2,050 for rulemaking.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Act 622 of 1997 specifically requires that costs to affected persons and nongovernmental groups be held to a minimum by using existing data streams where feasible. In keeping with the statutory mandate, the Office of Public Health in consultation with the health industry representatives chose existing UB-92 billing data as the hospital discharge data stream. It is estimated that during the first year, Louisiana's 184 licensed hospitals will experience a data submission cost of \$0.25 to \$1 per patient discharge record on a volume of 608,000 discharges, or an

average cost of \$0.50 per record. Almost all of the estimated \$304,000 cost will flow to data processing intermediaries currently serving the hospitals. In year two and subsequent years, the estimated cost is \$0.25 per discharge record with the funds again flowing to data processing vendors.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition; employment effects for the state government relate to the seven state center for health statistics positions requested in the proposed budget. The estimated personnel cost for FY 1998-99 is \$239,618 if all seven positions are approved and filled.

David W. Hood
Secretary
9807#045

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Health Care Facilities Sanctions

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule as authorized by the Health Care Facilities and Services Licensing Enforcement Act, R.S. 40:2199 of the 1997 Legislature, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Act 1390 of 1997 Regular Legislative sessions established under R.S. 40:2199 the authority for the Department of Health and Hospitals to impose civil fines on those health care facilities determined to be out of compliance with any state or federal law, or rule governing the operation and provision of health care services. It is anticipated that the imposition of civil fines will increase compliance with regulations and thereby improve the quality of health care provided to the citizens of this state. Sanctions specified in the proposed rule are applicable to the violation of any state or federal statute, regulation, or Department of Health and Hospital (department) rule governing health care services, except nursing facilities. Sanctions for the violation of any state or federal statute, regulation, or department rule governing nursing facilities were previously promulgated.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following provisions governing sanctions imposed on health care facilities.

I. General Provisions

A. Any health care facility listed in B. below found to be in violation of any state or federal statute, regulation, or any Department of Health and Hospital (department) rule adopted pursuant to the Administrative Procedure Act governing the administration and operation of the facility may be sanctioned as provided in the schedule of fines listed below.

B. For purposes of this rule, "facility" refers to any agency licensed by Department of Health and Hospitals as an adult day health care facility, substance abuse/addiction treatment

facility, ambulatory surgical center, case management facility, urine drug screening facility, mobile cholesterol screening facility, end stage renal disease facility, supplier of portable X-ray services, home health agency, hospice, hospital, or Intermediate Care Facility for the Mentally Retarded.

C. The opening or operation of a facility without a license or registration shall be a misdemeanor, punishable upon conviction by a fine of not less than \$1,000 nor more than \$5,000. Each day's violations shall constitute a separate offense. On learning of such an operation, the department shall refer the facility to the appropriate authorities for prosecution.

D. Any facility found to have a violation that poses a threat to the health, safety, rights, or welfare of a resident or client may be liable for civil fines in addition to any criminal action which may be brought under other applicable laws.

II. Description of Violations and Applicable Civil Fines

A. Class "A" Violations

1. A Class "A" violation is a violation of a rule or regulation that creates a condition or occurrence relating to the maintenance and operation of a facility which results in death or serious harm to a resident or client. Examples of Class "A" violations include, but are not limited to, the following:

- a. acts or omissions by an employee or employees of a facility that either knowingly or negligently resulted in the death of a resident or client;
- b. acts or omissions by an employee or employees of a facility that either knowingly or negligently resulted in serious harm to a resident or client.

2. Civil fines for Class "A" violations may not exceed \$2,500 for the first violation and may not exceed \$5,000 per day for repeat violations.

B. Class "B" Violations

1. A Class "B" violation is a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and operation of a facility is created which results in the substantial probability that death or serious harm to a resident or residents will result if the condition or occurrence remains uncorrected. Examples of Class "B" violations include, but are not limited to, the following:

- a. medications or treatments improperly administered or withheld;
- b. lack of functioning equipment necessary to care for a resident or client;
- c. failure to maintain emergency equipment in working order;
- d. failure to employ a sufficient number of adequately trained staff to care for residents or clients; and
- e. failure to implement adequate infection control measures.

2. Civil fines for Class "B" violations may not exceed \$1,500 for the first violation and may not exceed \$3,000 per day for repeat violations.

C. Class "C" Violations

1. A Class "C" violation is a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and operation of the facility creates a potential for

harm by directly threatening the health, safety, rights, or welfare of a resident or client. Examples of Class "C" violations include, but are not limited to, the following:

- a. failure to perform treatments as ordered by the physician;
- b. improper storage of poisonous substances;
- c. failure to notify physician and family of changes in condition of a resident or client;
- d. failure to maintain equipment in working order;
- e. inadequate supply of needed equipment;
- f. lack of adequately trained staff necessary to meet a resident's or client's needs; and
- g. failure to adhere to professional standards in giving care to a resident or client.

2. Civil fines for Class "C" violations may not exceed \$1,000 for the first violation and may not exceed \$2,000 per day for repeat violations.

D. Class "D" Violations

1. Class "D" violations are violations of rules or regulations related to administrative and reporting requirements that do not directly threaten the health, safety, rights, or welfare of a resident or client. Examples of Class "D" violations include, but are not limited to, the following:

- a. failure to submit written report of accidents;
- b. failure to timely submit a Plan of Correction;
- c. falsification of a record; and
- d. failure to maintain resident or client financial records as required by rules or regulations.

2. Civil fines for Class "D" violations may not exceed \$100 for the first violation and may not exceed \$250 dollars per day for repeat violations.

E. Class "E" Violations

1. Class "E" violations occur when a facility fails to submit a statistical or financial report in a timely manner when such a report is required by rule or regulation.

2. Civil fines for Class "E" violations may not exceed \$50 for the first offense and may not exceed \$100 per day for repeat violations.

F. Maximum Amount for a Civil Fine

The aggregate fines assessed for violations determined in any one month may not exceed \$10,000 for Class "A" and Class "B" violations. The aggregate fines assessed for Class "C," Class "D," and Class "E" violations determined in any one month may not exceed \$5,000.

G. The department shall have the authority to determine whether a violation is a repeat violation and to sanction the provider accordingly. Violations are considered repeat violations by the department if the following conditions exist:

1. when the department has established the existence of a violation as of a particular date and the violation is one that may be reasonably expected to continue until corrective action is taken, the department may elect to treat said continuing violation as a repeat violation subject to appropriate fines for each day following the date on which the initial violation is established, until such time as there is evidence that the violation has been corrected; or

2. when the department has established the existence of a violation and another violation which is the same or substantially similar to the cited violation occurs within 18

months, the second and all similar subsequent violations occurring within the 18-month time period will be considered repeat violations and sanctioned accordingly.

III. Notice and Appeal Procedure

A. When the department imposes a civil fine on a health care provider, it shall give the provider written notice of the imposition. The notice shall be given by certified mail and shall include the following:

1. the nature of the violation(s) and whether the violation(s) is classified as an initial or a repeat violation;
2. the legal authority which established the violation(s);
3. the civil fine assessed for each violation;
4. inform the administrator of the facility that the facility has 10 days from receipt of the notice during which to request an informal reconsideration of proposed sanction;
5. inform the administrator of the facility that the facility has 30 days from receipt of the notice within which to request an administrative appeal of the proposed civil fines and that the request for an informal reconsideration does not extend the time limit for requesting an administrative appeal; and
6. inform the administrator of the facility that the consequences of failing to request an informal reconsideration and/or an administrative appeal are that the department's decision becomes final and that no further administrative or judicial review may be had.

B. The provider may request an Informal Reconsideration of the department's decision to impose a civil fine. This request shall be in writing and made to the department within 10 days of receipt of the notice of the imposition of the fine. This reconsideration shall be conducted by designated employees of the department who did not participate in the initial decision to recommend imposition of a sanction. Reconsideration decisions shall be based on documents and oral presentations made by the provider to the designated employees at the time of the reconsideration. Correction of the deficient practice for which the civil fine was imposed shall not be the basis of the reconsideration. The designated employee shall only have the authority to confirm, reduce or rescind the civil fine. The department shall notify the provider of the results of the reconsideration within 10 working days after the reconsideration. This process is not in lieu of the administrative appeal and does not extend the time limits for filing an administrative appeal.

C. The facility may request an administrative appeal. If an administrative appeal is requested in a timely manner, the appeal hearing shall be conducted as provided in the Administrative Procedure Act (R.S. 49:950 et seq.). An appeal bond shall be posted with the Bureau of Appeals as provided in LA R.S. 40:2199(D) or the provider may choose to file a devolutive appeal. A *devolutive appeal* means that the civil fine must be paid in full within 10 days of filing the administrative appeal.

D. The provider may request judicial review of the administrative appeal decision as provided in the Administrative Procedure Act.

IV. Collection of Fines

A. Fines are final when:

1. an appeal is not requested within the specified time limits;
2. the facility admits the violations and agrees to pay the fine; or
3. the administrative hearing affirms the department's findings of violations and the time for seeking judicial review has expired.

B. When civil fines become final, they shall be paid in full within 10 days of their commencement unless the department allows a payment schedule in light of documented financial hardship. Arrangements with the department for a payment schedule must commence within 10 days of the fines becoming final. Interest shall begin to accrue at the current judicial rate on the day the fines become final.

C. If payment of assessed fines is not received within the prescribed time period after becoming final and the provider is a Medicaid provider, the department shall deduct the full amount plus the accrued interest from money otherwise due to the provider as Medicaid reimbursement in its next (quarterly or monthly) payment. If the provider is not a Medicaid provider, the department shall institute civil actions as necessary to collect the fines due.

D. No provider may claim imposed fines or interest as reimbursable costs, nor increase charges to residents, clients, or patients as a result of such fines or interest.

E. Civil fines collected shall be deposited in the Health Care Facility Fund maintained by the state treasury.

Interested persons may submit written comments to the following address: Thomas D. Collins, 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 Friday, August 28, 1998 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, 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.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Health Care Facilities Sanctions

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this proposed rule will not result in costs to the state. However, \$320 will be incurred in SFY 1998-99, for the state's administrative expense of promulgating this proposed rule as well as the final rule. No additional costs are anticipated for SFY 99-2000 and SFY 2000-01.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated effect on revenue collections to the state are approximately \$35,550 for SFY 1998-99, \$47,400 for SFY

999-00, and \$48,822 for SFY 2000-01 resulting from impositions of civil fines for health care facilities determined to be out of compliance. In addition, \$320 will be incurred in SFY 1998-99 for the federal share of promulgating this proposed rule as well as the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Health care facilities determined to be out of compliance with federal or state law, or any rule governing the operation and provision of health care services shall have a civil fine imposed on them by DHH. Those facilities continuously out of compliance when revisited could be terminated from the program in accordance with federal or state law. The amount of revenue health care facilities will lose as a result of the imposition of civil fines for noncompliance is approximately \$35,550 for SFY 1998-99, \$47,400 for SFY 1999-00, and \$48,822 for SFY 2000-01.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this proposed rule will increase the workload of the Health Standards Section of the Department of Health and Hospitals.

Thomas D. Collins
Director
9807#048

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid—Children Supplemental
Security Income (SSI)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Section 4913 of the Balanced Budget Act of 1997, requires the Medicaid Program to provide mandatory eligibility for eligible children who on August 22, 1996 were receiving Supplemental Security Income (SSI) but who effective July 1, 1997, or later, lost SSI payment because of a disability determination under the rules enacted in welfare reform (P.L. 104-193). Medicaid benefits for children whose eligibility is reinstated under this provision applies to medical assistance furnished on or after July 1, 1997.

Regulation 42 CFR 435.122 requires states to provide Medicaid to individuals who would be eligible for Supplemental Security Income (SSI) or an optional state supplement except for an eligibility requirement used in those programs that is specifically prohibited under Medicaid. Thus, under 42 CFR 435.122 states must provide Medicaid to

children who have lost SSI benefits because of a disability determination under the rules enacted in welfare reform (P.L. 104-193).

This action is necessary to comply with the mandatory requirement of the Balanced Budget Act of 1997.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 4913 of the Balanced Budget Act of 1997 to establish a new mandatory eligibility group for eligible children whom on August 22, 1996 were receiving Supplemental Security Income (SSI) but who effective July 1, 1997, or later, lost SSI payment because of a disability determination under the rules enacted by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

Medicaid benefits for children whose eligibility is reinstated under this provision applies to medical assistance furnished on or after July 1, 1997.

Interested persons may submit written comments to Thomas D. Collins, 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 Friday, August 28, 1998 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, 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.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid—Children
Supplemental Security Income (SSI)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed rule will not result in state costs. However, \$80 will be incurred in SFY 1998-99 for the state's administrative expense of promulgating this proposed rule as well as the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on federal revenue collections. However, the federal share of promulgating this proposed rule as well as the final rule is \$80 will be incurred in SFY 1998-99.

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 as this creates a new group for eligible children essentially continued on Medicaid coverage that no longer receives SSI payments because of disability determination.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9807#051

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid—Hemophilia Settlement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Under a recent settlement, four manufacturers of blood plasma products will pay \$100,000 to each of 6,200 hemophilia patients who are infected with human immunodeficiency virus (HIV). Approximately 1,000 of the HIV-infected patients are already eligible for Medicaid. Payment made under the settlement to these individuals would in most instances cause them to exceed the income and/or resource limit for Medicaid eligibility. To avoid potential loss of Medicaid for these individuals, Section 4735 of the Balance Budget Act of 1997 (BBA) provides that, notwithstanding any other provision of law, payments made to class members under this settlement shall not be considered as income or resources in determining either eligibility for or the amount of benefits under the Medicaid program.

Regulation 42 CFR 435.122 requires states to provide Medicaid to individuals who would be eligible for Supplemental Security Income (SSI) or an optional state supplement except for an eligibility requirement used in those programs that is specifically prohibited under Medicaid. The settlement payments are counted as income and resources under SSI, but cannot be counted under Medicaid. Thus, under 42 CFR 435.122 states must provide Medicaid to individuals who lose SSI eligibility because of receipt of the settlement, even if their sole basis for eligibility for Medicaid was receipt of SSI benefits. While the settlement payments themselves may not be counted as income or resources under Medicaid, Section 4735 does not similarly exempt any income that may be derived from those payments. Provisions governing transfers of assets and treatment of trusts under Section 1917 of the Social Security Act are not applicable, since the settlement payments are not counted as income or resources in determining eligibility.

This action is necessary to comply with the Balanced Budget Act of 1997. The fiscal impact for the implementation of this rule cannot be determined as the identity of settlement recipients has been sealed by the court and we cannot estimate

the number of Louisiana citizens who are class members under this settlement.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 4735 of the Balanced Budget Act of 1997 which states that notwithstanding any other provision of law, payments made from any fund established pursuant to a class settlement entitled, "Factor VIII or IX Concentrate Blood Products Litigation," MDL 986 (Number 93-C-7452, Northern District of Illinois) shall not be considered as income or resources in determining either eligibility for, or the amount of benefits under, the Medicaid program. While the settlement payments may not be counted as income or resource under Medicaid, Section 4735 does not similarly exempt any income that may be derived from those payments. Provisions governing transfers of assets and treatment of trusts under Section 1917 of the Social Security Act are not applicable, since the settlement payments are not counted as income or resources in determining eligibility.

Interested persons may submit written comments to Thomas D. Collins, 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 Friday, August 28, 1998 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, 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.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid—Hemophilia Settlement**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Estimated implementation costs to the state for this proposed rule cannot be determined as the identity of settlement recipients has been sealed by the court and we cannot estimate the number of Louisiana citizens who are class members under this settlement. However, \$160 will be incurred in SFY 1998-99 for the state's administrative expense of promulgating this proposed rule as well as the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Estimated effect on federal revenue collections cannot be determined as the identity of settlement recipients has been sealed by the court and we cannot estimate the number of Louisiana citizens who are class members under this settlement. However, the federal share of promulgating this proposed rule as well as the final rule is \$160 will be incurred in SFY 1998-99.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The economic benefits to directly affected persons is that

receipt of settlement payment will not cause settlement class members to be ineligible for Medicaid Benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9807#049

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid—Louisiana Children's Health Insurance Program (LaChip)

The Department of Health and Hospitals, Bureau of Health Services Financing, proposes to adopt the following rule as authorized by R.S. 46:153. This proposed rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Section 4901 of the Balanced Budget Act of 1997 (BBA, Public Law 105-33) amended the Social Security Act (the Act) to create Title XXI. Under Title XXI, a new State Children's Health Insurance Program is established to assist state efforts to initiate and expand child health assistance to uninsured, low-income children. Under this program, child health assistance is to be provided by obtaining health benefits coverage through 1) providing coverage that meets requirements specified in the law under section 2103 of the Act; or 2) expanding coverage under the State's Medicaid Plan under Title XIX of the Act; or 3) a combination of both.

Act 128 of the First Extraordinary Session of 1998 of the Louisiana Legislature requires the secretary of the Department of Health and Hospitals, or his designee, to act as the sole agent of the state in administering federal funds granted to the state for the Children's Health Insurance Program. In addition, the legislation directs the department to implement the Louisiana Children's Health Insurance Program (LaCHIP) by expanding coverage to uninsured children under the Title XIX (Medicaid).

Therefore, the department proposes to adopt the following rule to implement the first phase of the Louisiana Children's Health Insurance Program (LaCHIP) for children up to 133 percent of the federal poverty level by expanding coverage to these children under the Title XIX (Medicaid). Health benefits coverage will be provided through a Medicaid expansion that will cover uninsured children who are: 1) under the age of 19; 2) are from families with incomes at or below 133 percent of the federal poverty level; and 3) do not meet the state's Medicaid eligibility criteria in effect as of April 15, 1997.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to implement the first phase of the Louisiana Children's Health Insurance Program (LaCHIP) for children up to 133 percent of

the federal poverty level (FPL) by expanding coverage to uninsured children under the Title XIX (Medicaid) and Title XXI. This is in compliance with the section 4901 of the Balanced Budget Act enacting Title XXI of the Social Security Act and Act 128 of the First Extraordinary Session of the 1998 Louisiana Legislature enacting the LaCHIP Program. The LaCHIP Medicaid expansion covers uninsured children who meet the following criteria: 1) are under the age of 19; 2) are from families with incomes at or below 133 percent of the federal poverty level; 3) do not meet the state's Medicaid eligibility criteria in effect as of March 31, 1997. Children who are excluded from coverage under the LaCHIP Medicaid expansion are: 1) those currently eligible for Medicaid; 2) those currently covered by other types of health insurance; 3) inmates of a public institution; and 4) patients in an institution for mental disease.

Children are considered uninsured for the purpose of determining eligibility for LaCHIP if they do not have creditable coverage for health insurance. The department is adopting the definition of creditable coverage for health insurance, the definition for health insurance coverage, and the exceptions to health insurance coverage as cited in section 2110 of the Social Security Act which references 42 U.S.C. §300 gg(c)(1), §300 gg-91(b)(1), and §300 gg-91(c)(1).

Children shall not be considered uninsured if their creditable coverage is dropped within the three calendar months prior to application for LaCHIP benefits unless the reason for dropping the coverage is loss of the employment that provided access to insurance coverage.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this rule.

A public hearing will be held on this matter on Friday, August 28, at 9:30 a.m. in the Auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medicaid—Louisiana Children's Health Insurance Program (LaCHIP)

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this proposed rule will result in increased state costs of approximately \$6,576,654 for SFY 1998-99, \$11,038,505 for SFY 1999-00, and \$11,353,029 for SFY 2000-01. Included in SFY 1998-99 is \$120 for the state's administrative expense of promulgating this proposed rule as well as the final rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated effect on federal revenue collections are

approximately \$17,851,569 for SFY 1998-99, \$30,370,557 for SFY 1999-00, and \$31,225,488 for SFY 2000-01. Included in SFY 1998-99 is \$120 for the federal share of promulgating this proposed rule as well as the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Health benefits coverage will be provided through a Medicaid expansion that will cover uninsured children who: 1) are under the age of 19; 2) are from families with incomes at or below 133 percent of the federal poverty level; and 3) do not currently meet the state's Medicaid eligibility criteria as of March 31, 1997. Providers of Medicaid services will experience reimbursement increases of approximately \$24,428,223 for SFY 1998-99, \$41,409,062 for SFY 1999-00, and \$42,578,517 for SFY 2000-01.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9807#044

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid—Low Income Families

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Bureau of Health Service Financing adopted a rule which set forth state and federal requirements governing the eligibility determination for entitlement of benefits under Title XIX of the Social Security Act (*Louisiana Register*, Volume 23, Numbers 1 and 6). Section 1931 of the Social Security Act establishes low income families as eligibility group covered by Medicaid and sets the applicable income and resource limitations for eligibility determination. Under our current policy, burial insurance, funeral plans or funeral agreements, cash surrender values of life insurance policies, and equity value in excess of \$1,500 for one vehicle used for personal transportation are considered countable resources in the determination of eligibility for Medicaid. In order to be consistent with the resources policy adopted by the Department of Social Services in a final rule published in the February 20, 1998 issue of the *Louisiana Register*, the bureau proposes to amend the Medicaid resources policy to exempt certain resources from consideration in the determination of eligibility.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the

current policy governing countable resources for low income families with children to exempt the following resources from consideration for the determination of Medicaid eligibility:

1. burial insurance, funeral plans, or funeral agreements;
2. cash surrender values of life insurance policies; and
3. equity value up to \$10,000 of one vehicle used for personal transportation.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this rule.

A public hearing will be held on this matter on Friday, August 28, 1998 at 9:30 a.m. in the Auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid—Low
Income Families**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed rule will result in state costs of approximately \$419,879 for SFY 1998-99, \$718,015 SFY 1999-00, and \$1,015,240 for SFY 2000-2001. Included in SFY 1998-99 is \$80 for the state's administrative expense of promulgating this proposed rule as well as the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated effect on revenue collections are approximately \$996,606 for SFY 1998-99, \$1,698,731 for SFY 1999-00, and \$2,401,926 for SFY 2000-01. Included in SFY 1998-99 is \$80 for the federal share of promulgating this proposed rule as well as the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Some applicants who would have otherwise been denied eligibility for Medicaid may be entitled to receipt of benefits due to the exemption of certain resources from consideration in eligibility determination. Exempting certain resources from being counted in the eligibility determination process will result in costs of approximately \$1,416,485 for SFY 1998-99, \$2,416,746 for SFY 1999-00, and \$3,417,166 for SFY 2000-01. Included in SFY 1998-99 is \$160 for the promulgating this proposed rule as well as the final rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9807#047

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid—Twelve-Month
Continuous Eligibility

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Under the provisions of §4731 of the Balanced Budget Act of 1997 (BBA), Public Law 105-33, states may guarantee eligibility for children under age 19 for up to 12 months from the date of determination, but eligibility cannot be extended beyond the child's nineteenth birthday. In addition, the Louisiana Legislature directed in Act 128 §976.A.(4) of the First Extraordinary Session of 1998 that the guaranteed eligibility option be adopted. Therefore, the department proposes to adopt the following rule to provide 12 months of continuous Medicaid eligibility for children under the age of 19. However, 12 months of continuous Medicaid eligibility is not available to children who are eligible under the medically needy category.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provision to provide continuous Medicaid eligibility for children under age 19 for 12 months from the date of determination as allowed under §4731 of the Balanced Budget Act of 1997 and directed by Act 128 §976.A.(4) of the First Extraordinary Session of 1998 of the Louisiana Legislature. However, 12 months of continuous Medicaid eligibility is not available to children who are eligible under the medically needy category.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this rule.

A public hearing will be held on this matter on Friday, August 28, 1998 at 9:30 a.m. in the Auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA.. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

**RULE TITLE: Medicaid—Twelve-Month
Continuous Eligibility**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no additional state costs anticipated for the implementation of this proposed rule. Any potential costs resulting from continuous eligibility are anticipated to be offset by savings generated from: lower administrative costs as a result of cases not being repeatedly opened and closed, more efficient service utilization as a result of uninterrupted preventive care, and a decrease in the inappropriate utilization of emergency room and inpatient hospital services. However, \$80 will be incurred in SFY 1998-99 for the state's administrative expense of promulgating this proposed rule as well as the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on federal revenue collections anticipated as justified in I. above. However, the federal share of promulgating this proposed rule as well as the final rule is \$80, and will be incurred in SFY 1998-99.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Children under the age of 19 shall be continuously Medicaid eligible 12 months from the date of determination. However, this does not apply to children eligible under the medically needy category. There are no costs anticipated to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9807#050

H. Gordon Monk
Staff Director
Legislative Fiscal Officer

NOTICE OF INTENT

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

Pharmacy Program—Erectile Dysfunction Drugs

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides coverage for prescription drugs for treatment of erectile dysfunction without limitation through the Pharmacy Program under the Medicaid Program. The Department has determined it is

necessary to limit the number of units of these drugs that are reimbursed under the Medicaid Program to six units per month. This proposed rule is being adopted in an effort to prevent potential abuse of these prescription drugs.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing limits the number of units of prescription drugs for the treatment of erectile dysfunction that are reimbursable by the Medicaid Program to six units per month per patient. Units include tablets, injectables, intraurethral pellets and any other dosage form which may become available. In addition, the following provisions will govern the reimbursement for these drugs.

1. Prescriptions issued for the treatment of erectile dysfunction must be hand written and shall include a medically accepted indication.

2. An ICD-9 diagnosis code must be written on the hard copy of the prescription or attached to the prescription which is signed and dated by the prescriber.

3. Recipient specific diagnosis information from the prescriber via the facsimile is acceptable when signed and dated by the prescriber.

4. Acceptable ICD-9 diagnosis codes for these drugs includes impotence of non-organic origin or impotence of organic origin.

5. No reimbursement for therapeutic duplication of drugs, early refills, or duplicate drug therapy within the therapeutic class of drugs used to treat erectile dysfunction is allowed.

Interested persons may submit written comments to Thomas D. Collins, 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 Friday, August 28, 1998 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, 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.

David Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pharmacy Program—Erectile Dysfunction
Drugs**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this proposed rule will result in a reduction in state costs of approximately (\$335,385) for SFY 1997-98*, (\$3,138,859) SFY 1998-99, (\$3,233,025) for SFY 1999-00, and (\$3,330,016) for SFY 2000-01. Also, \$80 will be incurred in SFY 1997-98 for the state's administrative expense of promulgating this proposed rule as well as the final rule.

*Note: This figure reflects the 39 days the rule became effective as an emergency rule (5/22/98-6/30/98).

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated effect on federal revenue collections are approximately (\$793,477) for SFY 1997-98, (\$7,426,133) for SFY 1998-99, (\$7,648,917) for SFY 1999-00, and (\$7,878,384) for SFY2000-01. Also, \$80 will be incurred in SFY 1997-98 for the federal share of promulgating this proposed rule as well as the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Pharmacists will experience reimbursement reductions of approximately (\$1,128,862) for SFY 1997-98, (\$10,564,992) for SFY 1998-99, (\$10,881,942) for SFY 1999-00, and (\$11,208,400) for SFY 2000-01 as a result of limiting the number of units for erectile dysfunction drugs covered under the Medicaid Program. Medicaid recipients will now receive a limited supply of prescription drugs for treatment of erectile dysfunction.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There is no known effect on competition and employment.

Thomas D. Collins
Director
9807#046

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

Motor Carrier Safety and Hazardous
Materials (LAC 33:V.10303)

The Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section proposes to amend LAC 33:V.10303 pertaining to Motor Carrier Safety and Hazardous Material requirements to add part 385 of 49 CFR, (Safety Fitness Procedures) as authorized by 32:1501 et seq. The proposed amendment will aid the Motor Carrier efforts and consists solely of the adoption of 49 CFR Part 385.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 2. Department of Public Safety and

Corrections—Hazardous Materials

**Chapter 103. Motor Carrier Safety and Hazardous
Materials**

**§10303. Federal—Motor Carrier Safety and
Hazardous Materials**

A. ...

Hazardous Materials Regulations

Parts 171 - 180 ...

Motor Carrier Safety Regulations

Part 382 - 383 ...

Part 385 Safety Fitness Procedures

Parts 390 - 397 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:1115 (November 1991), LR 19:351 (March 1993), LR 20:58 (January 1994), LR 24:956 (May 1998), LR 24:

Interested persons may submit written comments until 4:30 p.m., August 20, 1998, to Paul Schexnayder, Attorney, Department of Public Safety and Corrections, Office of State Police, Legal Section, Box 66614, Baton Rouge, LA 70896.

Thomas H. Normile
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Motor Carrier Safety and
Hazardous Materials**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated cost to state or local governmental units associated with this administrative rule adoption.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
State governmental collections will be enhanced depending upon the level of noncompliance found during state compliance reviews.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Part 385 will monitor compliance with existing state motor carrier safety regulations. Compliance with these regulations has been required since 1985. Carriers who are currently in compliance will experience no economic impact. Carriers found to be in noncompliance will be affected only indirectly by part 385.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Part 385 could positively impact competition by making the rating criteria for intrastate carriers consistent and compatible with that for interstate carriers.

Thomas H. Normile
Undersecretary
9807#040

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Responsible Vendor Program
(LAC 55:VII.501-509)

Under the authority of R.S. 26:933 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to amend Chapter 5 of LAC 55:VII, pertaining to the Responsible Vendor Program.

Act 1054 of the 1997 Regular Session of the Louisiana Legislature enacted R.S. 26:931 et seq., to establish the Responsible Vendor Program to educate vendors, their employees and customers about selling, serving, and

consuming alcoholic beverages in a responsible manner. LAC 55:VII.501, adopted April 1998, implemented assessment of an annual \$35 fee for all new and renewal permits for licensed establishments holding Class "A" General, Class "A" Restaurant, or a Class "B" Retail Alcoholic Beverage Control Permits issued under R.S. 26:71 or R.S. 26:271 to fund administration of the Responsible Vendor Program.

This proposal, which amends §501 to move the fee provisions to §505.A.4 and adds §§503 et seq., establishes the program's purpose; defines terms; prescribes requirements for responsible vendor certification, server permitting, training provider and trainer approval, certification, and record retention; and specifies minimum course standards for server training classes.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 5. Responsible Vendor Program

§501. Purpose

The Responsible Vendor Program is intended to educate vendors and their employees and customers about selling, serving, and consuming beverage alcohol, tobacco, and tobacco products. Chapter 5 relates to the development, establishment, and maintenance of the Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

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

§503. Definitions

For purposes of this Chapter, the following terms are defined:

Approved Training Provider—an individual, unincorporated association, partnership, or corporation approved by the program administrator to provide server training courses.

Commissioner—the commissioner of the state Office of Alcohol and Tobacco Control.

Program Administrator—a committee or board of nine persons that shall develop and administer the Responsible Vendor Program.

Responsible Vendor—any vendor who qualifies and maintains certification in the Responsible Vendor Program.

Responsible Vendor Handbook—the handbook that is developed, published, and distributed by the program administrator and approved by the commissioner.

Server—any employee of a vendor who is authorized to sell or serve beverage alcohol in the normal course of his or her employment or deals with customers who purchase or consume beverage alcohol.

Server Permit—the permit issued to a server upon completion of a server training course and all refresher courses.

Trainer—an individual employed or authorized by an approved training provider to conduct an alcohol server education course wherein the successful completion of the course by the student will result in the issuance of a server permit.

Vendor—any holder of a state Class A—General, Class A—Restaurant, or Class B—Retail permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:

§505. Vendors

A. Certification and Enrollment as a Responsible Vendor

1. The vendor shall review and understand the vendor handbook.

2. The vendor shall provide the Office of Alcohol and Tobacco Control with a completed "vendor affidavit" for enrollment in the program.

3. The vendor shall require all "servers" to attend an approved server training course within 45 days of the first day of employment.

4. The vendor shall pay an annual fee of \$35 per licensed establishment holding a Class A—General, Class A—Restaurant, or Class B—Retail permit for the purpose of funding development and administration of the Responsible Vendor Program.

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

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

B. Maintaining Certification

1. The vendor shall keep the vendor handbook current with all updates and periodic amendments distributed by the program administrator.

2. The vendor shall provide new employees already licensed under the Responsible Vendor Program with the rules and regulations applicable in the parish or municipality of the establishment's location.

3. The vendor shall maintain server training records, which include the name, date of birth, social security number, and date of hire for all servers. The records shall be kept on the licensed premises at all times for inspection by agents of the Office of Alcohol and Tobacco Control or other peace officers.

4. The vendor shall post signs on the licensed premises informing customers of the vendor's policy against selling alcoholic beverages or tobacco products to underage persons if required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:

§507. Servers

A. Server applicants with special needs, such as an inability to read or write in English, hearing impairment, etc., shall contact the approved training provider at least one week before the alcohol server training course to request specific assistance in completing the course. Notwithstanding any other provision of Chapter 5, the training provider and the program administrator shall attempt to provide reasonable accommodation when requested in compliance with state and federal law.

B. Server Permit

1. Server permits shall be valid for two years from the completion of an approved alcohol training course.

2. Whenever a server is employed in the service of alcohol, their permit and one legal form of picture identification shall be available on the premises for inspection by agents of the Office of Alcohol and Tobacco Control or other peace officers.

3. A server's refusal or failure to make their permit available on the premises for immediate inspection by authorized agents or peace officers shall be evidence of a violation of this Section.

C. Server Permit Verification. The Office of Alcohol and Tobacco Control shall maintain a list of currently certified servers by name, permit number, and date of birth, so that vendors can verify the validity of the servers' permits.

D. Permit Expiration, Renewal, and Lost Permits

1. Every server permit shall expire on the last day of the month, two years after the month that the server successfully completed the alcohol server education course.

2. To be eligible for renewal of a server permit, the server shall again attend and successfully pass an alcohol server's education course and examination given by an approved training provider.

3. Lost permits shall be canceled and a replacement issued by the Office of Alcohol and Tobacco Control after the server submits an affidavit of lost permit and a \$5 fee.

E. Illegal Possession of a Permit. Any person who falsifies, keeps, or possesses a server permit contrary to the provisions of this Chapter shall be guilty of a violation of this Chapter.

F. Server Liability; Penalties, Fines, Suspension, or Revocation of Server Permit. Notwithstanding any criminal actions taken, the commissioner may issue administrative violation notices to any holder of a server permit for noncompliance with this Chapter or for any violation, attributable to the server, of Title 26 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:

§509. Training; Providers and Trainers

A. Trainer Certification. Approved providers shall only contract with trainers that have any combination of a minimum of two years of:

1. verified full-time employment in the fields of training, education, law, law enforcement, substance abuse rehabilitation, the hospitality or retail industry that involved the sale or service of alcohol; or

2. post-secondary education in the fields of training, education, law, law enforcement, substance abuse rehabilitation, or the hospitality or retail industry that involved the sale or service of alcohol.

B. Training Provider Certification

1. A person or business entity that applies to become an approved training provider for alcohol server education shall submit the following to the program administrator:

a. a completed application form provided by the program administrator;

b. a copy of the lesson plans, audio, visual, and printed materials provided as part of the alcohol server training course;

- c. a copy of the examinations;
- d. the names, dates of birth, social security numbers, addresses and phone numbers, and educational and employment backgrounds of all trainers to be used in teaching the course; and
- e. notification of any changes within 30 days of hiring, contracting with, or termination of any trainers.

2. After the program content or method of presentation has been approved by the program administrator, the training provider shall notify and obtain approval of any changes from the program administrator.

C. The alcohol server permits issued by the program providers to students who successfully complete the server training programs shall be obtained from the Office of Alcohol and Tobacco Control.

D. Denial or Rescission of Program Approval

1. The program administrator may deny or rescind approval of any program if any of the following is found:

- a. the program does not meet the minimum course standards set out in Chapter 5;
- b. the Application for Program Certification is not correct or complete;
- c. any trainer has been convicted of a felony or of a misdemeanor related to theft, fraud, or misrepresentation and it has been less than three years since the discharge of the sentence imposed as a result of the conviction; or
- d. any trainer has been convicted of operating a vehicle while intoxicated at the time they were employed as a trainer and it has been less than one year since the discharge of the sentence imposed as a result of the conviction.

2. Within 10 days after receipt of the notice that the program approval has been denied or rescinded, the applicant has the right to request a hearing before the program administrator.

3. If the applicant fails to request a hearing, the right to a hearing is waived and the program administrator's decision is final.

4. The notice that the program approval has been denied or rescinded shall be served by either certified mail or personal service at the applicant's main office to any adult agent or employee or to its registered agent.

E. Training Provider and Trainer Records—Rights of Inspection

1. Within 10 days of any training course, the training provider shall submit to the Office of Alcohol and Tobacco Control a copy of the server permit forms issued and a report of the server training that includes the following:

- a. the name, social security number, permit number, address, telephone number, and date of birth of each student that completed the training course and passed the required examination;
- b. the name of the trainer that conducted the course and the trainer's signature and verification that each student listed has successfully completed the approved course on the date indicated and any other facts as the program administrator or agents or employees of the Office of Alcohol and Tobacco Control may require.

2. Copies of the examinations and permits shall be kept

for two years from the date of issue at the training provider's place of business available for inspection and copying by agents or employees of the Office of Alcohol and Tobacco Control.

3. The training provider shall maintain for two years from the date the class was conducted, the course information, which includes the class location, date, and time; trainer's name; and the student's names, Social Security Number, and permit number. These records shall be maintained at the training provider's place of business available for inspection and copying by agents or employees of the Office of Alcohol and Tobacco Control.

F. Approved Training Provider Minimum Course Standards

1. To be certified to issue a server permit, the provider's course of instruction shall include the subject areas enumerated in R.S. 26:933(C), as well as the following:

- a. introduction:
 - i. brief review of the law creating the Louisiana Responsible Vendor Program, which shall include when the program was enacted, who is required to participate and how, when it becomes mandatory, nature of permits issued to server, when server permits expire, obligation of server to attend a course every two years, and server renewal procedures;
 - ii. objectives of the Responsible Vendor Program, which shall include education of vendors, servers, and their customers about responsible sales, service, and consumption of alcohol and tobacco; and prevention of the misuse, illegal use, and abuse of alcohol;
- b. classification of alcohol as a depressant and its effect on the human body, particularly on the ability to drive a motor vehicle:
 - i. alcohol is a depressant not a stimulant;
 - ii. how alcohol travels through the body, including how quickly it enters the bloodstream and reaches the brain;
 - iii. alcohol's effect on a person's ability to drive a motor vehicle, specifically reviewing alcohol's effect on a person's behavior, self-control, and judgment;
 - iv. outline of Louisiana's driving while intoxicated laws and penalties for violations;
- c. effects of alcohol when taken with commonly used prescription and nonprescription drugs:
 - i. mixing alcohol with other drugs can produce dangerous side effects. It is especially dangerous to drive under the influence of alcohol and other drugs because of the increased impairment due to both;
 - ii. alcohol and other depressant drugs. Mixing alcohol with other depressants dangerously increases the depressant effect on the body;
 - iii. alcohol and stimulants. stimulants do not cancel the intoxication and impairment due to alcohol;
 - iv. alone, many prescription and nonprescription drugs impair the ability to drive a motor vehicle;
 - v. the effects of commonly used prescription and nonprescription drugs;
 - vi. review of the effects of contemporary designer drugs such as GHB and Rohypnol;

d. absorption rate, as well as the rate at which the human body can dispose of alcohol and how food affects the absorption rate:

- i. rate at which the human body absorbs alcohol;
- ii. blood alcohol concentration (BAC) and how to estimate a person's BAC. Include drink equivalency guidelines;
- iii. how the human body disposes of alcohol;
- iv. the effect of food on the absorption rate;
- v. time is the only real factor that reduces intoxication;

e. methods of identifying and dealing with underage and intoxicated persons, including strategies for delaying and denying sales and service to intoxicated and underage persons:

- i. procedures and methods for detecting false identification;
- ii. procedures and methods for denying service or entry to underage persons;
- iii. procedures and methods for identifying intoxicated persons including behavioral warning signs and other signs of impairment;
- iv. procedures and methods for preventing over intoxication;
- v. procedures and methods for terminating service to intoxicated persons;

f. state laws and regulations regarding the sales and service of alcoholic beverages for consumption on or off premises:

- i. legal forms of identification in Louisiana;
- ii. legal age to purchase, possess, and consume alcohol and penalties for violation;
- iii. legal age to enter licensed premises and penalties for violation;
- iv. legal age to be employed by a vendor and penalties for violation;
- v. acts prohibited on licensed premises and penalties for violation;

g. parish and municipal ordinances and regulations that affect the sale and service of alcoholic beverages for consumption on or off the licensed premises. These provisions will depend on the jurisdiction of the servers attending the class and may vary according to the parish and municipality:

- i. legal hours of operation and Sunday sales;
- ii. noise, litter, and zoning;
- iii. leaving premises with alcohol;
- iv. preemption of parish and municipal server training courses;
- v. parish or municipal server licensing requirements;
- vi. other relevant regulations;

h. state and federal laws and regulations related to the lawful age to purchase tobacco products and age verification requirements:

- i. state and federal legal purchasing age;
- ii. federal age verification requirements;
- iii. state and federal laws and regulations related to vending machines;
- iv. state laws related to sign posting requirements;

v. state laws related to minimum packaging requirements.

2. Each approved server training course shall include at least two hours of classroom instruction, exclusive of breaks and examination time, and shall be presented in a continuous block of instruction. Classes shall be limited to no more than one 10-minute break per hour.

3. The approved server training course shall be presented in its entirety to each student in a language approved by the program administrator.

4. Each server training course must include an examination approved by the program administrator, which is administered by the trainer immediately following the course presentation. Students shall take the examination in writing, unless special circumstances require an oral examination. With the approval of the program administrator, the test may be offered in a language best understood by the student, or bilingual trainers may, in response to direct inquiries, clarify test questions using another language. Each student shall correctly answer at least 70 percent of the examination questions. Students who receive failing scores may be retested once at a time and place to be determined by the trainer. Otherwise, students must repeat the full course for an additional fee.

5. All training facilities shall meet the requirements of the Americans with Disabilities Act (ADA) and shall have adequate lighting, seating, easily accessible restrooms, and comfortable room temperature.

6. At the beginning of each server training course, the trainer shall give each student:

- a. an enrollment agreement that clearly states the obligations of the trainer and student, refund policies, and procedures to terminate enrollment;

- b. a notice that a student must complete the course in order to take the examination;

- c. a server training workbook, approved by the program administrator, that is current, complete, and accurate. The workbook shall include an outline of the minimum course curriculum, table of contents, titles, subheadings, and page numbers. Physical specifications must meet the following minimum standards:

- i. minimum dimensions of paper size must be 8½ by 11 inches;

- ii. paper stock, excluding front and back cover, shall be white or near white, and of a quality and weight suitable for reproduction and note-taking with no ink bleed through;

- iii. type must be a minimum of 11-point in a type style commonly used for textbooks and periodicals;

- iv. binding must firmly hold the pages together in correct order and be sufficient for use during the course and as a reference;

- v. professional printing and typesetting are not required, but reproductions must be clear, readable, and letter quality;

- vi. for ease of reading and adequate room for note-taking, white space must be a minimum of 30 percent per page with the print or copy to be no more than 70 percent of the page.

7. No server training class shall include more than 100 students and students that arrive more than 15 minutes after the class begins shall not be admitted.

8. The classroom presentation must be consistent with the approved program.

9. Discussions must be pertinent to responsible beverage alcohol or tobacco sales, service, and consumption.

10. The program administrator or their designee may attend any class to evaluate conformance with the program certified by the program administrator.

11. At least seven days in advance, the training provider or their authorized trainers shall give written notice to the Office of Alcohol and Tobacco Control of the date, time, and location of all courses scheduled. The Office of Alcohol and Tobacco Control shall be notified by phone or fax of course cancellations prior to the course date except when cancellation cannot be anticipated, in which case notification shall be within three business days of the scheduled course date.

G. Approved Server Training Course Fees. Approved providers may charge fees for the cost of conducting the approved server training courses. The fees shall be approved by the program administrator and the commissioner and may not exceed \$25.

H. Sanctions Against Approved Training Providers and Trainers. Any approved training provider or trainer who violates any of the provisions of Title 26 of the Louisiana Revised Statutes or any of the requirements of Chapter 5 shall:

1. for a first offense receive a notice of intended suspension or revocation of the program administrator's certification or authorization, with 30 days allowed to correct any violations. If the violation is rectified no further action will be taken;

2. if the violation is not rectified or a second violation by the training provider or their trainer occurs, the program administrator or their designee shall suspend approval and certification of the training provider or trainer for a period not to exceed six months. Before the suspension will be lifted, the training provider or trainer shall correct all violations;

3. the program administrator or their designee may increase sanctions based on successive violations within a two-year period. Numerous violations within a two-year period may indicate disregard for the law or failure to provide an acceptable alcohol server education program so as to warrant cancellation of the certification of either the training provider or their trainer;

I. Approved Training Provider Responsible for Acts of Trainers. The program administrator may hold a training provider responsible for any act or omission of the training provider's program, personnel, trainers, or representatives that violate any law or administrative rule pertaining to approved training providers' privileges.

J. Prohibited Conduct. No approved training provider or authorized trainer shall:

1. make any false or misleading statement to induce or prevent the program administrator's actions;

2. falsify, alter, or otherwise tamper with alcohol server permits or records;

3. permit a student to refer to any written material or

have a discussion with another person during the exam unless the instructor authorizes the student to use an interpreter;

4. permit any student to drink alcoholic beverages or to be under the influence of intoxicants during the course presentation or examination, including breaks;

5. drink alcoholic beverages or be under the influence of intoxicants during the course presentation or examination, including breaks;

6. prohibit, interfere, or fail to assist the program administrator or their designee with scheduling or attendance of on-site observations.

K. Approved Training Provider and Trainer Advertising and Promotion Standards

1. Approved training provider and trainer advertising related to the alcohol server training courses shall include:

a. the approved provider's or trainer's telephone number and cancellation policy;

b. the total amount of course time that includes instruction, examination and breaks;

c. a statement that students shall attend the entire course before taking the examination.

2. Advertising shall not suggest that the state of Louisiana, the program administrator, or any state agency endorses or recommends the approved provider's program to the exclusion of any other program.

3. Upon request, the training provider or trainer shall give the program administrator copies of program publications, brochures, pamphlets, scripts, etc. or any other representation of advertising materials related to the program.

4. An approved training provider or trainer must have records available to support all advertising claims or representations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:

Interested persons may submit data, views, or arguments, in writing, to Murphy J. Painter, Commissioner of the Office of Alcohol and Tobacco Control, Department of Revenue, P.O. Box 66404, Baton Rouge, LA 70896 or by fax to (504) 925-3975. All comments must be submitted by 4:30 p.m., Monday, August 24, 1998.

A public hearing will be held on Tuesday, August 25, 1998, at 1 p.m. in the Seventh Floor Conference Room, 1885 Wooddale Boulevard, Baton Rouge, Louisiana.

Murphy J. Painter
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Responsible Vendor Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

LAC 55:VII.501, adopted April 1998, implemented assessment of an annual \$35 fee for all new and renewal permits for licensed establishments holding Class "A" General, Class "A" Restaurant, or a Class "B" Retail Alcoholic Beverage Control Permits issued under R.S. 26:71 or R.S. 26:271 to fund administration of the Responsible Vendor Program.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 10. Individual and Family Grant Program

Chapter 47. Application, Eligibility, and Furnishing Assistance

Subchapter A. Need and Amount of Assistance

§4704. Special Condition of Eligibility

Only U.S. citizens, U.S. non-citizen nationals and qualified aliens are eligible for IFG assistance. A qualified alien is defined as:

1. an alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. an alien granted asylum under §208 of the INA;
3. a refugee admitted to the U.S. under §207 of the INA;
4. an alien paroled into the U.S. under §212(d)(5) of the INA for at least one year;
5. an alien whose deportation is being withheld under §243(h) of the INA as in effect prior to April 1, 1997 or whose removal is being withheld under §241(b)(3) of the INA;
6. an alien granted conditional entry pursuant to §203(a)(7) of the INA as in effect prior to April 1, 1980;
7. an alien who is a Cuban or Haitian entrant, as defined in §501(e) of the Refugee Education Assistance Act of 1980; or
8. an alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the U.S. and otherwise satisfies the requirements of §431(c) of the Act.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P.L. 104-208.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:

Interested persons may submit written comments by August 26, 1998 to Vera W. Blakes, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed rule will be held on August 26, 1998 at the Department of Social Services, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana 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 (504) 342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Individual and Family Grant
Program—Eligibility**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs or savings to the state associated with this rule except the minimal cost of publication in the *Louisiana Register*. There is no effect on local governmental units.

This proposal, which amends §501 to move the fee provisions to §505.A.4 and adds §§503 et seq., establishes the program's purpose; defines terms; prescribes requirements for responsible vendor certification, server permitting, training provider and trainer approval, certification, and record retention; and specifies minimum course standards for server training classes and should have no impact on agency costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of this rule will have no effect on state and local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Adoption of this proposed rule will require the estimated 70,000 servers employed at the 13,000 licensed establishment holding Class "A" General, Class "A" Restaurant, or Class "B" Retail Alcoholic Beverage Control Permits issued under R.S. 26:71 or R.S. 26:271 to pay a \$25 fee to attend an approved server training program every two years as required by R.S. 26:934. Assuming that all 70,000 attend training during the first year, the first-year server costs are estimated to be \$1.75 million.

The approved training providers will realize additional income equal to the \$1.75 million in training fees paid by the servers to attend the approved training programs.

Since the server training is only required every two years, data is not available to estimate the number of new servers that will be hired and required to attend server training during the second and subsequent years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption of this proposed rule should have no impact on competition or employment.

Murphy J. Painter
Commissioner
9807#032

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

**Individual and Family Grant (IFG) Program
(LAC 67:III.4704)**

The Department of Social Services, Office of Family Support, proposes to adopt Title 67, Part III, Subpart 10, of the *Louisiana Administrative Code*, pertaining to the Individual and Family Grant (IFG) Program.

This rule specifies eligibility of non-citizens for IFG Program assistance. The Federal Emergency Management Agency (FEMA), which governs the IFG Program, promulgated this rule as a result of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, as amended by the Illegal Immigration Reform and Immigration Responsibility Act of 1996, Public Law 104-208. In the event of a declared disaster prior to November 1, 1998, an emergency rule will be necessary to effect this regulation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no 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 is no immediate cost or economic benefit to any individuals or nongovernmental groups. In the event of a declared disaster, a small number of certain non-citizen would not be entitled to IFG Program assistance.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no impact on competition or employment.

Vera W. Blakes
Assistant Secretary
9807#065

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

**Support Enforcement Services
(LAC 67:III.2525)**

The Department of Social Services, Office of Family Support proposes to amend Title 67, Part III, Subpart 4, of the *Louisiana Administrative Code* pertaining to Support Enforcement Services (SES), the child support enforcement program.

Pursuant to Public Law 105-33, the Balanced Budget Act of 1997, SES is now cooperating in automated administrative enforcement in interstate cases. Recent program review by the U.S. Department of Health and Human Services, Office of Child Support Enforcement (OCSE), prompted that agency to advise SES to incorporate defining language into LAC 67:III.2525.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter F. Cooperation with Other States

§2525. Automated Administrative Enforcement in Interstate Cases

A. SES shall use high-volume, automated administrative enforcement on interstate cases to the same extent as used for intrastate cases. This means the use of automatic data processing to search various state data bases, including license records, employment service data, and state new hire registries, to determine whether information is available regarding a parent who owes a child support obligation.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:958 (May 1998), amended LR 24:

All interested persons may submit written comments through

August 28, 1998 to Vera W. Blakes, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065.

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Support Enforcement Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule defines automated enforcement. The only cost associated with the rule is the cost of publishing the notice and final rule. There are no costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no cost or economic benefit to any persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9807#068

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of the Treasury
Bond Commission**

Expedited Review Procedure for Movables

In accordance with the provisions of Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana State Bond Commission intends to amend the commission's rules as originally adopted November 20, 1976.

Pursuant to the provisions of R.S. 39:1410.60(B), the State Bond Commission intends to adopt the following rule regarding expedited review of purchases of movables.

Title 71

TREASURY

Part III. Bond Commission

SECTION 1. The provisions of this rule on expedited review of financing purchases of movables shall be applicable to such purchases that meet the criteria set forth in Section 2.

SECTION 2. In order for the proposed financing to be eligible for the expedited review process, all of the following criteria must be met and certified in writing by an authorized agent of the governmental entity seeking approval under the expedited review process:

A. The movables must be specifically identified in the

resolution and the funds must be used to acquire movable property necessary to provide essential governmental services such as those related to safety, sanitation, road and highway construction and repair, health services, communication, education, and transportation.

B. The governmental entity must have excess or sufficient revenues to cover annual debt service according to the provisions of R.S. 33:2921.

C. The total amount of the indebtedness cannot exceed the greater of \$100,000 or 10 percent of the governmental entity's annual revenues.

D. There must have been no default on any debt obligation within the previous five years.

E. The provisions of the public bid law, to the extent applicable, have been complied with.

SECTION 3. The governmental entity shall submit the following documents for approval under this rule:

A. The resolution of the governmental entity authorizing the indebtedness.

B. A copy of the governmental entity's current budget, showing budgeted excess revenues pursuant to R.S. 33:2921.

C. A certification from the governmental entity in the form approved by the commission, attesting to compliance with all the requirements of this rule.

SECTION 4. On an as needed basis the staff of State Bond Commission shall mail to the commission members a notice of all such requests submitted to the commission staff that meet the criteria for approval under the rule, and that are scheduled for approval by the executive director. Each borrowing so submitted shall be approved by the executive director of the State Bond Commission 10 days following the mailing of the notice unless a member of the commission, prior to approval by the executive director, requests that the financing be placed on the agenda at the next Bond Commission meeting.

If any member of the commission requests that a financing submitted to the staff under the provisions of this rule be placed on the agenda, such financing shall be placed on the agenda for consideration at the next commission meeting in accordance with the commission's rules and regulations.

CERTIFICATION OF COMPLIANCE WITH CRITERIA FOR APPROVAL OF FINANCING OF MOVABLES UNDER EXPEDITED PROCEDURE

Name of Entity: _____
Equipment to be Purchased: _____
Term of Financing: _____
Amount of Financing: _____
Interest Rate: _____
Maximum Annual Debt Service: _____

BEFORE ME, the undersigned authority, personally came and appeared _____ who declared that he/she is the _____ for the _____ and does hereby certify that:

The proposed financing is being entered into for the purpose of acquiring movable property necessary to provide essential governmental services, more specifically the following:

The borrower has sufficient revenues to repay the loan pursuant to the provisions of R.S. 33:2921.

The total amount of financing does not exceed the greater of \$100,000 or 10 percent of the borrower's annual revenues.

The provisions of the public bid law, to the extent applicable, have been complied with.

The borrower has not been in default on any debt obligation within the previous five years.

The following documents are attached:

- 1. the Resolution of the borrower.
- 2. a copy of the borrower's annual budget.

Public Official
Sworn to and subscribed before me, this _____ day of _____, at _____, Louisiana.

Notary Public

Interested persons may submit their views and opinions through August 5, 1998 to Sharon Perez, Secretary and Director of the State Bond Commission, Twenty-first Floor, State Capitol Building, Box 44154, Baton Rouge, LA 70804.

The commission shall, prior to the adoption of the rule, afford all interested persons reasonable opportunity to submit data, views, or arguments, if requested by 25 persons, or a committee of either house of the legislature to which the rule change has been referred, as required under the provisions of Section 968 of Title 49.

At least eight working days prior to the meeting of the commission at which a rule or rules are proposed to be adopted, amended or repealed, notice of any intention to make an oral or written presentation shall be given to the director of the commission. If the presentation is to be oral, such notice shall contain the name or names, telephone numbers, and mailing addresses of the person or persons who will make such oral presentation, who they are representing, the estimated time needed for the presentation, and a brief summary of the presentation. Notice of such oral presentation may be sent to all commission members prior to the meeting. If the presentation is to be written, such notice shall contain the name or names of the persons submitting such written statement, who they are representing, and a copy of the statement itself. Such written statement shall be sent to all commission members prior to the meeting.

The commission shall consider all written and oral submissions concerning the proposed rules. Upon adoption of a rule, the commission, if requested to do so by an interested person either prior to the adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for or against its adoption.

Ken Duncan
State Treasurer and Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Expedited Review Procedure for Movable

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs to state or local governmental units. Local governments will benefit by being able to finance the purchase of movables on a more timely basis.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is 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 to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Sharon B. Perez
Director
9807#066

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of the Treasury
Deferred Compensation Commission**

Comprehensive Rule Revisions
(LAC 71:VII.Chapters 1-17)

The Louisiana Public Employees Deferred Compensation Plan (the "Plan") was adopted by the Louisiana Deferred Compensation Commission (the commission), effective September 15, 1982. The Plan was established in accordance with Louisiana R.S. 42:1301-1308, and §457 of the *Internal Revenue Code of 1986*, as amended, for the purpose of providing supplemental retirement income to employees and independent contractors by permitting such individuals to defer a portion of compensation to be invested and distributed in accordance with the terms of the Plan.

Effective January 1, 1999, the commission intends to repeal the Plan in its entirety and adopt and repromulgate the following rules in *Louisiana Administrative Code* format. The restated Plan shall supersede all plans and rules previously adopted in connection with the Louisiana Public Employees Deferred Compensation Plan.

**Title 71
TREASURY**

**Part VII. Public Employees Deferred Compensation
Chapter 1. Administration**

§101. Definitions

Administrator or Plan Administrator—the person, persons or entity appointed by the Louisiana Deferred Compensation Commission to administer the Plan pursuant to LAC 71:VII.103, if any.

Beneficiary—the person, persons or entities designated by a participant pursuant to LAC 71:VII.301.A.4.

Commission—the Louisiana Deferred Compensation Commission, as established in accordance with R.S. 42:1302, which shall be comprised of the state treasurer, the commissioner of Administration, the commissioner of Insurance, the commissioner of Financial Institutions (or their designees), and three participant members (elected by the participants).

Compensation—all payments paid by the employer to an employee or independent contractor as remuneration for services rendered, including salaries and fees.

Custodial Account—the account established with a bank or trust company meeting the provisions of *Internal Revenue*

Code (IRC) §401(f), that the commission has elected to satisfy the trust requirement of IRC §457(g) by setting aside plan assets in a custodial account.

Custodian—the bank or trust company selected by the commission to hold Plan assets pursuant to IRC §§457(g) and §401(f).

Deferred Compensation—the amount of compensation not yet earned, which the participant and the commission mutually agree, shall be deferred.

Employee—any individual, including an individual who is elected or appointed, providing personal services to the employer, provided, however, that an independent contractor shall not be treated as an employee.

Employer—the state of Louisiana. *Employer* shall also mean any political subdivision of the state and any agency or instrumentality of the state or of a political subdivision of the state that has selected this Plan as their eligible IRC §457 Deferred Compensation Plan.

Includible Compensation—(for purposes of the limitation set forth in LAC 71:VII.303) compensation for services performed for the employer that is currently includible in the participant's gross income for federal income tax purposes, determined without regard to any community property laws. *Includible compensation* thus does not include compensation excludable from the participant's gross income under IRC §457 as a result of deferrals under this Plan, or any other eligible deferred compensation plan described in IRC §457(b) maintained by the employer, or under any other provision (including, but not limited to, IRC §§125, 402(g)(3), 402(h)(1)(B), 403(b) and 911).

Independent Contractor—an individual (not a corporation, partnership, or other entity), who is receiving compensation for services rendered to or on behalf of the employer in accordance with a contract between such individual and the employer.

Interest or Interest in Deferred Compensation—under the plan, the aggregate of:

1. a participant's deferred compensation for his or her entire period of participation in the Plan; and
2. the earnings or losses allocable to such amount. Such interest represents an accounting entry only and does not constitute an ownership interest, right or title in the assets so invested.

IRC—the *Internal Revenue Code of 1986*, as amended, or any future United States internal revenue law. References herein to specific section numbers shall be deemed to include Treasury regulations thereunder and to corresponding provisions of any future United States internal revenue law.

Investment Product—any form of investment designated by the commission for the purpose of receiving funds under the Plan.

Normal Retirement Age—

1. the age designated by a participant, which age shall be between:
 - a. the earliest date on which such participant is entitled to retire under the public retirement system of which that participant is a member without actuarial reduction in his or her benefit, and
 - b. age 70½, provided, however, that if a participant

continues in the employ of the employer beyond 70½, *normal retirement age* means the age at which the participant separates from service.

2. If the participant is not a member of any public retirement system, the participant's *normal retirement age* may not be earlier than age 55.

Participant—an individual who is eligible to defer compensation under the Plan, and has executed an effective deferral authorization. *Participant* also includes an employee or independent contractor who has separated from service but has not received a complete distribution of his or her interest in deferred compensation under the Plan.

Participation Agreement—the agreement executed and filed by an individual who is eligible to defer compensation under the Plan, and has executed an effective deferral authorization.

Pay Period—a regular accounting period designated by the employer for the purpose of measuring and paying compensation earned by an employee or independent contractor.

Plan—the Louisiana Public Employees Deferred Compensation Plan established by this document and any applicable amendment.

Plan Year—the calendar year.

Separation from Service or Separates from Service—

1. with respect to an employee, the permanent severance of the employment relationship with the employer on account of such employee's:

- a. retirement;
- b. discharge by the employer;
- c. resignation;
- d. layoff; or
- e. in the case of an employee who is an appointed or elected officer, the earlier of:
 - i. the taking of the oath of office of such officer's successor, or
 - ii. the cessation of the receipt of compensation.

2. If an employee incurs a break in service for a period of less than 30 days or transfers among various Louisiana governmental entities, such break or transfer shall not be considered a *separation from service*.

3. With respect to an independent contractor, *separation from service* means that the expiration of all contracts pursuant to services performed for or on behalf of the employer.

Total Amount Deferred—with respect to each participant, the sum of all compensation deferred under the Plan (plus investment gains and/or losses thereon, including amounts determined with reference to life insurance policies) calculated in accordance with the method designated in the participant's participation agreement(s) under which such compensation was deferred and any subsequent election(s) to change methods, less the amount of any expenses or distributions authorized by this Plan.

Trustee—the commission or such other person, persons or entity selected by the commission who agrees to act as *trustee*. This term also refers to the person holding the assets of any custodial account or holding any annuity contract described in LAC 71:VII.317.

Unforeseeable Emergency—severe financial hardship to a

participant resulting from a sudden and unexpected illness or accident of the participant or of a dependent [as defined in IRC §152(a)] of the participant; loss of the participant's property due to casualty; or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant.

The need to send a participant's child to college or the desire to purchase a home shall not constitute an *unforeseeable emergency*. Whether a hardship constitutes an *unforeseeable emergency* under IRC §506 shall be determined in the sole discretion of the commission.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§103. Commission Authority

The commission shall have full power and authority to adopt rules or policies required to implement the Plan and to interpret, amend or repeal any such rule or policy. In addition, the commission shall have full power and authority to administer the Plan or to arrange for the administration of the Plan through appropriate contracts or agents in accordance with applicable state law. The power and authority of such agents shall be limited to the powers enumerated in the contractual agreements between the commission and such agents.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§105. Duties of Commission

The duties shall include:

1. appointing one (or more) attorney, accountant, actuary, custodian, record-keeper or any other party needed to administer the Plan;
2. directing the trustee or custodian with respect to payments from assets held in the Plan;
3. communicating with employees regarding their participation and benefits under the Plan, including the administration of all claims procedures;
4. filing any returns and reports with the Internal Revenue Service or any other governmental agency;
5. reviewing and approving any financial reports, investment reviews, or other reports prepared by any party appointed under §105.A.1;
6. establishing a funding policy and investment objectives consistent with the purposes of the Plan;
7. construing and resolving any question of Plan interpretation. The commission's interpretation of Plan provisions (including eligibility and benefits under the Plan) is final;
8. appointing an emergency committee comprised of three individuals. Applications for a withdrawal of deferred compensation based on an unforeseeable emergency shall be approved or disapproved by such committee.
 - a. A participant shall furnish medical or other evidence to the emergency committee to establish and substantiate the existence of an unforeseeable emergency.
 - b. If an application for a withdrawal based on unforeseeable emergency is approved, the amount of the

withdrawal shall be limited to the amount required to meet such emergency. Payment shall not be made to the extent such emergency is relieved:

- i. through reimbursement or compensation by insurance or otherwise;
- ii. by the liquidation of the participant's assets, provided the liquidation does not cause a financial hardship; or
- iii. by the revocation of the participant's deferral authorization.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§107. Administrative Fees and Expenses

The commission may, in its sole discretion, use one or more of the following methods to meet the costs of administering the Plan. The commission may:

1. establish a reasonable monthly or annual administrative charge;
2. deduct an allocable portion of administrative costs from deferred compensation;
3. deduct an allocable portion of administrative costs from the income or earnings of investment products;
4. authorize any duly-appointed administrator to accept commissions from providers of investment products, provided, however, that the amount of such commissions may not exceed the amount of similar commissions paid to unrelated third parties;
5. deduct administrative costs from funds on deposit in financial institutions; and/or
6. deduct any other reasonable fee or commission required to defray the costs of administering the Plan.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§109. Actions of Administrator

Every action taken by the commission shall be presumed to be a fair and reasonable exercise of the authority vested in or the duties imposed upon it. The commission shall be deemed to have exercised reasonable care, diligence and prudence and to have acted impartially as to all affected persons, unless the contrary is proven by affirmative evidence. No member, if a participant of the commission or a committee, shall make any determination (other than a policy decision which affects all participants) similarly situated with respect to his or her specific interest in deferred compensation under the Plan. The commission shall not be liable for amounts of compensation deferred by participants or for other amounts payable under the Plan.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§111. Delegation

Subject to any applicable laws and any approvals required by the employer, the commission may delegate any or all of its powers and duties hereunder to another person, persons, or entity, and may pay reasonable compensation for such services

as an administrative expense of the Plan, to the extent such compensation is not otherwise paid.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

Chapter 3. Plan Participation, Options and Requirements

§301. Enrollment in the Plan

The following rules apply to compensation deferred under the Plan.

1. A participant may not defer any compensation for a calendar month unless a deferral authorization providing for such deferral has been completed by the participant and accepted by the commission prior to the beginning of such month. With respect to a new employee, compensation will be deferred in the calendar month during which a participant first becomes an employee if a deferral authorization providing for such deferral is executed on or before the first day on which the participant becomes an employee.

2. In signing the Participation Agreement, the participant elects to participate in this Plan and consents to the deferral by the employer of the amount specified in the Participation Agreement from the participant's gross compensation for each pay period. Such deferral shall continue in effect until modified, disallowed or revoked in accordance with the terms of this Plan.

3. The minimum amount of compensation deferred under a deferral authorization shall be no less than \$20 each month; provided, however, that such minimum deferral shall not apply to a participant whose deferral authorization (or similar form) in effect on October 1, 1984, permitted a smaller deferral, or to a participant who elects to defer not less than 7.5 percent of compensation (voluntary and/or involuntary contributions) in lieu of Social Security coverage (§11332 of the Social Security Act and IRC §3121). The employer retains the right to establish minimum deferral amounts per pay period and to limit the number and/or timing of enrollments into the Plan in the Participation Agreement.

4. Beneficiary. Each participant shall initially designate in the Participation Agreement a beneficiary or beneficiaries to receive any amounts which may be distributed in the event of the death of the participant prior to the complete distribution of benefits. A participant may change the designation of beneficiaries at any time by filing with the commission a written notice on a form approved by the commission. If no such designation is in effect on the participant's death, or if the designated beneficiary does not survive the participant by 30 days, his beneficiary shall be his surviving spouse, if any, and then his estate.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§303. Deferral Limitations

A. Except as provided in LAC 71:VII.305, the maximum that may be deferred under the Plan for any taxable year of a participant shall not exceed the lesser of:

1. \$7,500, as adjusted for cost-of-living in accordance with IRC §457(e)(15) for taxable years beginning after December 31, 1996; or

2. 33 1/3 percent of the participant's includible compensation, each reduced by any amount specified in LAC 71:VII.303.B that taxable year.

B. The deferral limitation shall be reduced:

1. for a participant who also participates in a rural cooperative plan [as defined in IRC §401(k)(7)] and for taxable years of any other participant beginning before January 1, 1989, any amount excludable from the participant's gross income under IRC §403(b) on account of employer contributions; or

2. in all other cases, any amount excludable from the participant's gross income attributable to elective deferrals to another eligible deferred compensation plan described in IRC §457(b), elective deferrals or employer contributions to an annuity program described in IRC §403(b), elective deferral to a qualified cash or deferred arrangement described in IRC §401(k) or to any simplified employee pension plan described in IRC §408(k) or Simple Retirement Account described in IRC §408(p), or any amount contributed on behalf of the participant to an organization described in IRC §501(c)(18).

At the time of initial enrollment and at all times thereafter, the participant must notify the commission of any amounts of income deferred under the plans listed above, or any subsequent changes in participation in any other such program.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§305. Limited Catch-up

For one or more of the participant's last three taxable years ending before the taxable year in which normal retirement age under the Plan is attained, the maximum deferral shall be the lesser of:

1. \$15,000, reduced by any applicable amount specified in LAC 71:VII.303.B for that taxable year; or

2. the sum of:

a. the limitations established for purposes of §303 of these rules, for such taxable year (determined without regard to this §305), also

b. so much of the limitation established under §303 of the Plan or established in accordance with IRC §457(b)(2) and the regulations thereunder under an eligible deferred compensation plan sponsored by an entity other than the employer and located in the same state for prior taxable years (beginning after December 31, 1978 and during all or any portion of which the participant was eligible to participate in this Plan) and has not theretofore been used under §§303 or 305 hereof or under such other plan (taking into account the limitations under and participation in other eligible deferred compensation plans in accordance with the *Internal Revenue Code*); provided, however, that this §305 shall not apply with respect to any participant who has previously utilized, in whole or in part, the limited catch-up under this Plan or under any other eligible deferred compensation plan (within the meaning of IRC §457 and the regulations thereunder).

If a participant is not a member of a public retirement system, normal retirement age may not be earlier than age 55.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§307. Participant Modification of Deferral

A participant shall be entitled to reduce the amount (or percentage) of deferred compensation once each calendar quarter. A participant shall be entitled to increase the amount (or percentage) of deferred compensation at any time during a calendar year, with respect to compensation payable no earlier than the calendar month after such modification is executed by the participant and accepted by the commission.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§309. Employer Modification of Deferral

A. The commission shall have the right to modify or disallow the periodic deferral of compensation elected by the participant:

1. in excess of the limitations stated in LAC 71:VII.303 and 305;

2. in excess of the participant's net compensation for any pay period;

3. upon any change in the length of pay period utilized by employer. In such case the periodic deferral shall be adjusted so that approximately the same percentage of pay shall be deferred on an annual basis;

4. in order to round down periodic deferrals to the nearest whole cent amount;

5. to reduce the future deferrals in the event that the amount actually deferred for any pay period exceeds, for any reason whatsoever, the amount elected by the participant. In the alternative, such amount of excess deferral may be refunded to the participant. No adjustment in future deferrals shall be made if a periodic deferral is missed or is less than the amount elected, for any reason whatsoever; or

6. if the deferral elected for any pay period is less than the minimum amount specified in LAC 71:VII.301.A.3;

B. The employer and the commission shall have no liability to any participant or beneficiary with respect to the exercise of, or the failure to exercise, the authority provided in this §309.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§311. Revocation

A. A participant may, at any time, revoke his or her deferral authorization by notifying the commission, in writing, on forms acceptable to the commission. Upon the acceptance of such notification, deferrals under the plan shall cease no later than the commencement of the first pay period beginning at least 30 days after acceptance; provided, however, that the commission shall not be responsible for any delay which occurs despite its good faith efforts. In no event shall the revocation of a participant's deferral authorization permit a distribution of deferred compensation, except as provided in Chapter 7 of these rules and shall be subject to the terms and provisions of the affected investment.

B. A participant's request for a distribution in the event of an unforeseeable emergency shall in addition be treated as a

request for revocation of deferrals as of a date determined by the commission.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§313. Re-enrollment

A. A participant who revokes the Participation Agreement as set forth in §311 above may execute a new Participation Agreement to defer compensation payable no earlier than the calendar month after such new Participation Agreement is executed by the participant and accepted by the commission.

B. A former participant who is rehired after retirement may rejoin the Plan as an active participant unless ineligible to participate under other Plan provisions. If the rehired participant has commenced receiving distribution, the distribution may not be suspended during the period of re-employment, nor may the amounts received in the distribution be deferred again by reason of rejoining the Plan. If the rehired participant has not commenced receiving distribution, the irrevocable election shall be treated null and void.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§315. Multiple Plans

Should a participant participate in more than one deferred compensation plan governed by IRC §457, the limitations set forth in LAC 71:VII.303 and 305 shall apply to all such plans considered together. For purposes of LAC 71:VII.303 and 305, compensation deferred shall be taken into account at its value in the later of the plan year in which deferred or the plan year in which such compensation is no longer subject to a substantial risk of forfeiture (within the meaning of IRC §457).

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§317. Custody of Plan Assets

All amounts of compensation deferred under the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property or rights shall be held for the exclusive benefit of participants and their beneficiaries. The trust requirement of IRC §457(g) shall be satisfied as Plan assets and shall be set aside as follows.

1. Plan assets shall be set aside in one or more annuity contracts described in IRC §401(f). The owner of the annuity contract is the "deemed trustee" of the assets invested under the contract for purposes of IRC §457(g).

2. Plan assets shall be set aside in one or more custodial accounts described in IRC §401(f). The bank or trust company shall be the custodian and "deemed trustee" for purposes of IRC §457(g) and shall accept such appointment by executing same. The commission and custodian must enter into a separate written custody agreement.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§319. Qualified Military Service

Notwithstanding any provision of this Plan to the contrary, contributions and benefits with respect to qualified military service shall be provided in accordance with IRC §414(u).

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

Chapter 5. Investments

§501. Investment Options

A. The commission shall in its sole discretion select certain investment options to be used to determine income to be accrued on deferrals. These investment options may include specified life insurance policies, annuity contracts, or investment media issued by an insurance company. In any event, it shall be the sole responsibility of the commission to ensure that all investment options offered under the Plan are appropriate and in compliance with any and all state laws pertaining to such investments.

B. The commission shall have the right to direct the trustee with respect to investments of the Plan assets, may appoint an investment manager to direct investments, or may give the trustee sole investment management responsibility. Any investment directive shall be made in writing by the commission or investment manager. In the absence of such written directive, the trustee shall automatically invest the available cash in its discretion in an appropriate interim investment until specific investment directions are received. Such instructions regarding the delegation of investment responsibility shall remain in force until revoked or amended in writing. The trustee shall not be responsible for the propriety of any directed investment made and shall not be required to consult with or advise the commission regarding the investment quality of any directed investment held hereunder.

C. The commission may, from time to time, change the investment options under the Plan. If the commission eliminates a certain investment option, all participants who had chosen that investment shall select another option. If no new option is selected by the participant, money remaining in the eliminated investment option shall be moved at the direction of the commission. The participants shall have no right to require the commission to select or retain any investment option. To the extent permitted by and subject to any rules or procedures adopted by the administrator, a participant may, from time to time, change his choice of investment option. Any change with respect to investment options made by the commission or a participant, however, shall be subject to the terms and conditions (including any rules or procedural requirements) of the affected investment options and may affect only income to be accrued after that change.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§503. Participant Investment Direction

A. Participants shall have the option to direct the investment of their personal contributions and their share of any employer contributions among alternative investment

options established as part of the overall Trust, unless otherwise specified by the employer. Such investment options shall be under the full control of the trustee. A participant's right to direct the investment of any contribution shall apply only to making selections among the options made available under the Plan.

B. Each participant shall designate on his or her Participation Agreement the investment that shall be used to determine the income to be accrued on amounts deferred. If the investment chosen by the participant experiences a gain, the participant's benefits under the Plan likewise shall reflect income for that period. If the investment chosen by a participant experiences a loss, or if charges are made under such investment, the participant's benefits under the Plan likewise shall reflect such loss or charge for that period.

C. Neither the commission, the administrator, the trustee nor any other person shall be liable for any losses incurred by virtue of following the participant's directions or with any reasonable administrative delay in implementing such directions.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§505. Participant Accounts

A. The commission shall maintain or cause to be maintained a deferred compensation ledger account or similar individual account for each participant. At regular intervals established by the commission, each participant's account shall be:

1. credited with the amount of any deferred compensation paid into the Plan;
2. debited with any applicable administrative or investment expense, allocated on a reasonable and consistent basis;
3. credited or debited with investment gain or loss, as appropriate; and
4. debited with the amount of any distribution.

B. At least once per calendar quarter, each participant shall be notified in writing of his/her total amount deferred.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§507. Distributions from the Plan

The payment of benefits in accordance with the terms of the Plan may be made by the trustee, or by any custodian or other person so authorized by the commission to make such distribution. Neither the commission, the trustee nor any other person shall be liable with respect to any distribution from the Plan made at the direction of the employer or a person authorized by the employer to give disbursement direction.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

Chapter 7. Distributions

§701. Conditions for Distributions

Payments from the Plan to the participant or beneficiary shall not be made, or made available, earlier than:

1. the participant's separation from service pursuant to LAC 71:VII.703 or death; or
2. the participant's account meets all of the requirements for an in-service De Minimis distribution pursuant to LAC 71:VII.709; or
3. the participant incurs an approved unforeseeable emergency pursuant to LAC 71:VII.711.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§703. Separation from Service

Distributions to a participant shall commence no earlier than 61 days following the date in which the participant separates from service, in a form and manner determined pursuant to LAC 71:VII.715 and 717, unless a deferred commencement date is elected in accordance with §705 of these rules.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§705. Deferred Commencement Date at Separation from Service

A. No later than 60 days following the date in which the participant separates from service, the participant may elect a deferred commencement date for all or a portion of the participant's account balance. Except as specified in LAC 71:VII.707, such election shall be irrevocable. If the participant elects to defer the entire account balance, the future commencement date may not be later than April 1 of the calendar year following the calendar year in which the participant attains age 70½. If the participant elects to receive only a portion of the account, the future date elected to begin receiving the balance of the account may not be later than the end of the calendar year following the year a partial distribution was received. Any such election to defer the commencement of distributions shall be filed with the commission on or before the sixtieth day following the date in which the participant separates from service.

B. If the participant is an independent contractor:

1. in no event shall distributions commence prior to the conclusion of the 12-month period beginning on the date on which all such participant's contracts to provide services to or on behalf of the employer expire; and
2. in no event shall a distribution payable to such participant pursuant to Chapter 7 of these rules commence if, prior to the conclusion of the 12-month period, the participant performs services for the employer as an employee or independent contractor.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§707. Commencement Date Referral

The participant may irrevocably postpone the original deferred distribution date elected in §705 above to a later date, but not later than April 1 of the calendar year following the calendar year the participant attains age 70½, provided that:

1. such election is made prior to the deferred commencement date elected in §705 above and before distributions have commenced; and

2. the participant may make only one such election.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§709. In-Service De Minimis Accounts

The participant may elect to receive or the commission may distribute, without the consent of the participant, the participant's entire account in a lump sum if all of the following conditions are met:

1. the value of a participant's account does not exceed \$5,000, or the maximum amount permitted by the *Internal Revenue Code* or Internal Revenue Service regulations;

2. no amount has been deferred under the Plan with respect to the participant during the two-year period ending on the date of the distribution; and

3. there has been no prior distribution under the Plan to the participant pursuant to this §709.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§711. Unforeseeable Emergency

If a participant has incurred a genuine unforeseeable emergency and no other resources of financial relief are available, the commission may grant, in its sole discretion, a participant's request for a payment from the participant's account. Any payment made under this provision shall be in a lump sum.

1. The commission shall have the right to request and review all pertinent information necessary to assure that hardship withdrawal requests are consistent with the provisions of IRC §457.

2. In no event, however, shall an unforeseeable emergency distribution be made if such hardship may be relieved:

a. through reimbursement or compensation by insurance or otherwise;

b. by liquidation of the participant's assets, to the extent the liquidation of the participant's assets would not itself cause a severe financial hardship; or

c. by cessation of deferrals under this Plan.

3. The amount of any financial hardship benefit shall not exceed the lesser of:

a. the amount reasonably necessary, as determined by the commission, to satisfy the hardship; or

b. the amount of the participant's account.

4. Payment of a financial hardship distribution shall result in mandatory suspension of deferrals for a minimum of 12 months from the date of payment.

5. Currently, the following events are not considered unforeseeable emergencies under the Plan:

- a. enrollment of a child in college;
- b. purchase of a house;
- c. purchase or repair of an automobile;
- d. repayment of loans;
- e. payment of income taxes, back taxes, or fines associated with back taxes;
- f. unpaid expenses including rent, utility bills, mortgage payments, or medical bills;
- g. marital separation or divorce; or
- h. bankruptcy (except when bankruptcy resulted directly and solely from illness or casualty loss).

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§713. Death Benefits

A. If the participant dies after the commencement of distributions to the participant, the participant's remaining account shall be distributed to the beneficiary at least as rapidly as under the method of distribution in effect on the date of the participant's death.

B. If the participant dies prior to the commencement of distributions to the participant, and:

1. if the beneficiary is the participant's surviving spouse:

a. the commencement date shall be no later than the last day of the calendar year in which the participant would have attained age 70½ (or, if later, the calendar year immediately following the year of the participant's death); and

b. distribution shall be made to the beneficiary over a period that does not exceed the life expectancy of the beneficiary.

2. if the beneficiary is not the participant's surviving spouse:

a. the entire account balance shall be distributed no later than the last day of the calendar year which includes the fifth anniversary of the participant's death; or

b. if distributions to the beneficiary commence by the last day of the calendar year immediately following the year of the participant's death, the entire account balance shall be distributed over a period not exceeding 15 years or, if earlier, the beneficiary's life expectancy;

c. subject to the limitations set forth above, distributions shall be made to the beneficiary commencing on the sixty-first day after the commission receives satisfactory proof of the participant's death, unless prior to such date the beneficiary irrevocably elects a deferred commencement date consistent with this §713;

d. distribution shall be made in a form and manner determined under LAC 71:VII.715 and 717 that is consistent with the limitations set forth above.

C. If there are two or more beneficiaries, the provisions of this Subsection and LAC 71:VII.719 shall be applied to each beneficiary separately with respect to each beneficiary's share in the participant's account.

D. If the beneficiary dies after beginning to receive benefits but before the entire account balance has been distributed, the remaining account balance shall be paid to the estate of the beneficiary in a lump sum.

E. Under no circumstances shall the commission be liable to the beneficiary for the amount of any payment made in the name of the participant before the commission receives satisfactory proof of the participant's death.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§715. Payment Options

A. A participant's or beneficiary's election of a payment option must be made at least 30 days prior to the date that the payment of benefits is to commence. If a timely election of a payment option is not made, benefits shall be paid in accordance with LAC 71:VII.717. Subject to applicable law and the other provisions of this Plan, distributions may be made in accordance with one of the following payment options:

1. a single lump-sum payment;
2. substantially non-increasing installment payments for a period of years (payable on a monthly, quarterly, semiannual, or annual basis) which extends no longer than the life expectancy of the participant or such longer period as permitted under §713 of these rules;
3. substantially non-increasing installment payments for a period of years (payable on a monthly, quarterly, semiannual, or annual basis) automatically adjusted for cost-of-living increases based on the rise in the *Consumer Price Index for All Urban Consumers* (CPI-U) from the third quarter of the last year in which a cost-of-living increase was provided to the third quarter of the current year. Any increase shall be made in periodic payment checks beginning the following January;
4. partial lump-sum payment of a designated amount, with the balance payable in substantially non-increasing installment payments for a period of years, as described in Paragraph 2 of this Subsection, as long as such installment payments begin prior to the end of the calendar year following the year the partial lump-sum payment was made;
5. annuity payments (payable on a monthly, quarterly, or annual basis) for the lifetime of the participant or for the lifetime of the participant and beneficiary;
6. such other forms of substantially non-increasing installment payments as may be approved by the commission consistent with the limitations of LAC 71:VII.713.

Once payments have commenced, the form of payment option may not be changed.

B. If a participant has Plan assets with more than one investment provider under the employer's deferred compensation plan, funds from each investment provider must be coordinated and distributed in a manner that does not violate the "substantially non-increasing amount" provision in IRC §457(d) as amended from time to time.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§717. Default Distribution Option

If the participant fails to make a timely election of one of the payment options (described in LAC 71:VII.715 for distributions pursuant to LAC 71:VII.702) payments shall be

made in a lump sum. If a beneficiary fails to make a timely election of one of the payment options described in LAC 71:VII.715 for distributions pursuant to §713 of these rules, distribution shall be made in a lump sum.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§719. Limitations on Distribution Options

A. No distribution option may be selected by a participant or beneficiary under this Chapter 7 unless it satisfies the requirements of IRC §§401(a)(9) and 457(d), including the requirement that installment payments be made in substantially non-increasing amounts and that payments commencing before the death of the participant satisfy the incidental death benefits requirement. A cost-of-living increase included as part of a payment option is intended to comply with written IRS guidance such that the substantially non-increasing amount rule shall not be violated.

B. Unless otherwise elected by the participant (or spouse, in the cases of certain distributions described in LAC 71:VII.713), life expectancies of the participant and/or spouse shall be recalculated annually in determining the required minimum distribution amount under IRC §401(a)(9).

C. An election of nonrecalculation must be made as part of the election of a payment option under LAC 71:VII.715, and shall be irrevocable as to the participant (or spouse, if applicable) for all subsequent years. The life expectancy of a non-spouse beneficiary may not be recalculated. The terms of this Chapter 7 shall be construed in accordance with all applicable IRC sections and the regulations thereunder.

D. If installment payments are designated as the method of distribution, the minimum distribution shall be no less than \$100 per check, and the payments made annually must be no less than \$600.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§721. Taxation of Distributions

To the extent required by law, income and other taxes shall be withheld from each benefit payment, and payments shall be reported to the appropriate governmental agency or agencies.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§723. Transfers

A. Transfers to the Plan. If the participant was formerly a participant in an eligible deferred compensation plan maintained by another employer, and if such plan permits the direct transfer of the participant's interest therein to the Plan, then the Plan shall accept assets representing the value of such interest; provided, however, that the participant has separated from service with that employer and become an employee of employer. Such amounts shall be held, accounted for, administered and otherwise treated in the same manner as compensation deferred by the participant except that such amounts shall not be considered compensation deferred under the Plan in the taxable year of such transfer in determining the

maximum deferral under LAC 71:VII.303. The commission may require such documentation from the predecessor plan as it deems necessary to confirm that such plan is an eligible deferred compensation plan within the meaning of IRC §457, and to assure that transfers are provided under such plan. The commission may refuse to accept a transfer in the form of assets other than cash, unless commission agrees to hold such other assets under the Plan.

B. Transfers from the Plan. If a participant separates from service prior to his or her required beginning date, and becomes a participant in an eligible deferred compensation plan of another employer, and provided that payments under this Plan have not begun, such participant may request a transfer of his or her account to the eligible deferred compensation plan of the other employer. Requests for such transfers must be made in writing to the commission and shall be granted in the sole discretion of the commission. If an amount is to be transferred pursuant to this provision, the commission shall transfer such amount directly to the eligible deferred compensation plan of the other employer. Amounts transferred to another eligible deferred compensation plan shall be treated as distributed from this Plan and this Plan shall have no further responsibility to the participant or any beneficiary with respect to the amount transferred.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§725. Elections

Elections under this Chapter shall be made in such form and manner as the commission may specify from time to time.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

Chapter 9. Leave of Absence

§901. Paid and Unpaid Leave of Absence

A. Paid Leave of Absence. If a participant is on an approved leave of absence from the employer with compensation, or on approved leave of absence without compensation that does not constitute a separation from service within the meaning of IRC §402(d)(4)(A)(iii) which under the employer's current practices is generally a leave of absence without compensation for a period of one year or less, said participant's participation in the Plan may continue.

B. Unpaid Leave of Absence. If a participant is on an approved leave of absence without compensation and such leave of absence continues to such an extent that it becomes a separation from service within the meaning of IRC §402(e)(4)(A)(iii), said participant shall have separated from service with the employer for purposes of this Plan; provided, however, that pursuant to LAC 71:VII.705, said participant may elect to postpone commencement of benefit payments until a future date. Upon termination of leave without pay and return to active status, the participant may execute a new Participation Agreement to be effective when permitted by §301 of the Plan.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

Chapter 11. Plan Amendment or Termination

§1101. Termination

A. The commission may at any time terminate this Plan; provided, however, that no termination shall affect the amount of benefits which at the time of such termination shall have accrued for participants or beneficiaries. Such accrued benefit shall include any compensation deferred before the time of the termination and income thereon accrued to the date of the termination.

B. Upon such termination, each participant in the Plan shall be deemed to have revoked his agreement to defer future compensation as provided in LAC 71:VII.311 as of the date of such termination. Each participant's full compensation on a nondeferred basis shall be restored.

§1103. Amendment

A. The commission may also amend the provisions of this Plan at any time; provided, however, that no amendment shall affect the amount of benefits which at the time of such amendment shall have accrued for participants or beneficiaries, to the extent of and compensation deferred before the time of the amendment and income thereon accrued to the date of the amendment, calculated in accordance with LAC 71:VII.705 and the terms and conditions of the investment options hereunder; and provided further, that no amendment shall affect the duties and responsibilities of the trustee unless executed by the trustee.

B. Copies of Amendments. The administrator shall provide a copy of any plan amendment to any trustee or custodian and to the issuers of any investment options.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

Chapter 13. Taxes, Nonassignability and Disclaimer

§1301. Tax Treatment of Amounts Deferred

It is intended that pursuant to IRC §457, the amount of deferred compensation shall not be considered current compensation for purposes of federal and state income taxation. Such amounts shall, however, be included as compensation to the extent required under the Federal Insurance Contributions Act (FICA).

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§1303. Nonassignability

A. Nonassignability. It is agreed that neither the participant, nor any beneficiary, nor any other designee shall have any right to commute, sell, assign, transfer, or otherwise convey the right to receive any payments hereunder, which payments and right thereto are expressly declared to be nonassignable and nontransferable; and in the event of attempt to assign or transfer, the commission shall have no further liability hereunder, nor shall any unpaid amounts be subject to attachment, garnishment or execution, or be transferable by operation of law in event of bankruptcy, insolvency, except to the extent otherwise required by law.

B. Conforming Equitable Distribution Orders. Domestic relations orders approved by the commission shall be administered as follows.

1. To the extent required under a final judgment, decree, or order made pursuant to a state domestic relations law, herein referred to as a Conforming Equitable Distribution Order (CEDO), which is duly filed upon the commission, any portion of a participant's account may be paid or set aside for payment to an alternate payee.

(Note: For purposes for this Section, an alternate payee is a person or persons designated by a domestic relations order who may be a spouse, former spouse, or a child of the participant.)

Where necessary to carry out the terms of such a CEDO, a separate account shall be established with respect to the alternate payee, and such person(s) shall be entitled to make investment selections with respect thereto in the same manner as the participant. All costs and charges incurred in carrying out the investment selection shall be deducted from the account created for the alternate payee making the investment selection.

2. Any amounts so set aside for an alternate payee shall be paid out in a lump sum at the earliest date that benefits may be paid to the participant, unless the CEDO directs a different form of payment or later payment date. In no event is the alternate payee entitled to receive a distribution from the Plan prior to the time that the participant separates from service with the employer or becomes age 70½. Nothing in this §1303 shall be construed to authorize any amounts to be distributed under the employer's plan at a time or in a form that is not permitted under §457 of the *Internal Revenue Code*. Any payment made to a person other than the participant pursuant to this §1303 shall be reduced by required income tax withholding. The fact that payment is made to a person other than the participant may not prevent such payment from being includible in the gross income of the participant for withholding and income tax reporting purposes. Such withholding and income tax reporting shall be done under the terms of the *Internal Revenue Code* as amended from time to time.

3. The commission's liability to pay benefits to a participant shall be reduced to the extent that amounts have been paid or set aside for payment to an alternate payee pursuant to this §1303. No amount shall be paid or set aside unless the commission, or its agents or assigns, has been provided with satisfactory evidence releasing them from any further claim by the participant with respect to these amounts. The participant shall be deemed to have released the commission from any claim with respect to such amounts in any case in which the commission has been notified of or otherwise joined in a proceeding relating to a CEDO, which sets aside a portion of the participant's account for an alternate payee, and the participant fails to obtain an order of the court in the proceeding relieving the employer from the obligation to comply with the CEDO.

4. The commission shall not be obligated to comply with any judgment, decree or order which attempts to require the Plan to violate any plan provision or any provision of §457 of the *Internal Revenue Code*. Neither the commission nor its agents or assigns shall be obligated to defend against

or set aside any judgment, decree, or order described herein or any legal order relating to the division of a participant's benefits under the plan unless the full expense of such legal action is borne by the participant. In the event that the participant's action (or inaction) nonetheless causes the commission, its agents or assigns to incur such expense, the amount of the expense may be charged against the participant's account and thereby reduce commission's obligation to pay benefits to the participant. In the course of any proceeding relating to divorce, separation, or child support, the commission, its agents and assigns shall be authorized to disclose information relating to participant's individual account to the participant's spouse, former spouse or child (including the legal representatives of the alternate payee), or to a court.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

§1305. Disclaimer

The commission makes no endorsement, guarantee or any other representation and shall not be liable to the Plan or to any participant, beneficiary, or any other person with respect to

1. the financial soundness, investment performance, fitness, or suitability (for meeting a participant's objectives, future obligations under the Plan, or any other purpose) of any investment option in which amounts deferred under the Plan are actually invested; or

2. the tax consequences of the Plan to any participant, beneficiary or any other person.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

Chapter 15. Employer Participation

§1501. Additional Compensation Deferred

Notwithstanding any other provisions of this Plan, the employer may add to the amounts payable to any participant under the Plan additional deferred compensation for services to be rendered by the participant to the employer during a calendar month, provided:

1. the participant has elected to have such additional compensation deferred, invested, and distributed pursuant to this Plan, prior to the calendar month in which the compensation is earned; and

2. such additional compensation deferred, when added to all other compensation deferred under the Plan, does not exceed the maximum deferral permitted by Chapter 3.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

Chapter 17. Applicable Terms

§1701. Interpretation

A. Governing Law. This Plan shall be construed under the laws of the state of Louisiana.

B. Section 457. This Plan is intended to be an eligible deferred compensation plan within the meaning of §457 of the *Internal Revenue Code*, and shall be interpreted so as to be

consistent with such section and all regulations promulgated thereunder.

C. Employment Rights. Nothing contained in this Plan shall be deemed to constitute an employment agreement between any participant and the employer and nothing contained herein shall be deemed to give a participant any right to be retained in the employ of the employer.

D. Days and Dates. Whenever time is expressed in terms of a number of days, the days shall be consecutive calendar days, including weekends and holidays, provided, however, that if the last day of a period occurs on a Saturday, Sunday or other holiday recognized by the employer, the last day of the period shall be deemed to be the following business day.

E. Word Usage. Words used herein in the singular shall include the plural and the plural the singular where applicable, and one gender shall include the other genders where appropriate.

F. Headings. The headings of articles, sections or other subdivisions hereof are included solely for convenience of reference, and if there is any conflict between such headings and the text of the Plan, the text shall control.

G. Entire Agreement. This Plan Document shall constitute the total agreement or contract between the commission and the participant regarding the Plan. No oral statement regarding the Plan may be relied upon by the participant. This Plan and any properly adopted amendment, shall be binding on the parties hereto and their respective heirs, administrators, trustees, successors, and assigns and on all designated beneficiaries of the participant.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:

Interested persons may submit comments to Joseph A. Dionisi, Administrator, Louisiana Public Employees Deferred Compensation, Suite 702, 2237 South Acadian Thruway, Baton Rouge, LA 70808. Telephone (504) 926-8082. FAX (504)926-4447.

A public hearing will be held on Friday, August 28, 1998, at 2 p.m., at the above address. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing at said hearing. Individuals with disabilities who require special services should contact the Louisiana Public Employees Deferred Compensation Office prior to the hearing.

Emery Bares
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Comprehensive Rule Revisions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated implementation costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no cost to the state. The amended Plan Document would ensure compliance with federal statutes to maintain an eligible state deferred compensation plan with tax-deferred status of participant contributions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Emery J. Bares
Chairman
9807#054

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Office of Fisheries**

Game Fish Fingerling Aquaculture (LAC 76:VII.159)

The secretary of the Department of Wildlife and Fisheries does hereby give notice of the intent to amend the rule governing game fish fingerling aquaculture in Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

§159. Game Fish Fingerling Aquaculture - Rules and Permits

* * *

D. A fish farmer raising and selling live game fish fingerlings must submit an annual report delineating the total numbers of fishes stocked statewide by species and total acreage. This report will be sent to the Louisiana Cooperative Extension Service, where data will be compiled and remitted to the secretary of the Department of Wildlife and Fisheries. The deadline for submission of the annual report will be no later than one month after the reporting year has ended.

E. Game fish farmers transporting game fish fingerlings for sale must possess a bill of lading which shall accompany each shipment showing species of fish contained in the shipment, number, the origin of the payload, destination of the shipment, the name of the consignee and consignor, and the grower's name and fish farmer's license number.

* * *

H. Per R.S. 56:327.A.1.b.iv., the department shall have the authority to cancel sales or to confiscate and destroy shipments of game fish fingerlings that are determined by department personnel to have fish diseases or parasites that would endanger native fish populations. Game fish farmers must agree to allow department personnel or a department approved contractor to conduct unannounced random inspections of the transport vehicle. Those individuals may remove or take fish samples for analysis and/or inspection.

I. Genetic purity shall be maintained and game fish fingerlings produced shall not be genetically manipulated or altered in any way without prior approval of the department, except for hybrid crosses within the genera of *Lepomis*,

Pomoxis, *Micropterus*, or *Morone*, or fish produced with polyploid chromosomes.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327(A)(1)(b) and R.S. 56:327(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17:893 (September 1991), amended LR 24:

Interested parties may submit written comments on the proposed rule to Bennie Fontenot, Jr., Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000, no later than 4:30 p.m., September 3, 1998.

James H. Jenkins, Jr.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Game Fish Fingerling Aquaculture**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no anticipated implementation costs or savings to state or local governments with the proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no anticipated effects on revenue collection of state or local government units with the proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no anticipated costs or economic benefits in the proposed rule that will directly affect persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no anticipated effects on competition and employment as a result of the proposed rule.

Ronald G. Couvillion
Undersecretary
9807#061

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Goose Creeping (LAC 76:V.307)

The Wildlife and Fisheries Commission hereby gives notice of its intent to abolish the regulation that prohibits goose creeping.

**Title 76
WILDLIFE AND FISHERIES
Part V. Wild Quadrupeds and Wild Birds
Chapter 3. Wild Birds
§307. Goose Creeping**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:547 (August 1988), repealed LR 24:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the Fiscal and Economic Impact statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may comment on the proposed rule in writing to Hugh Bateman, Administrator, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 until 4:30 p.m., September 2, 1998.

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Goose Creeping**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs to state or local government units if goose creeping regulations are abolished.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will have no effect on revenue collections of state or local governments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no cost and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Ronald G. Couvillion
Undersecretary
9807#060

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Nonresident Charter Trip Fishing
License (LAC 76:VII.411)

The Wildlife and Fisheries Commission does hereby give notice of its intent to adopt a rule imposing fees for nonresident charter trip fishing licenses.

**Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 4. License and License Fees
§411. NonResident Charter Trip Fishing License**

A. In lieu of the basic recreational fishing license, nonresidents may purchase from a licensed charter boat fishing

guide, a nonresident charter trip fishing license for a fee of \$15. The license shall be valid only while fishing from a vessel upon which the licensed charter boat fishing guide is present and for the duration of the trip as defined, stated on the face of the license at the time of issuance.

B. The above fee hereby supersedes the fees established for the above license at R.S. 56:302.1.C(2)(c).

C. The effective date of the above fee shall be October 20, 1998.

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

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the Fiscal and Economic Impact statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may comment on the proposed rule in writing to Janis Landry, Fiscal Section, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 until 4:30 p.m., September 3, 1998.

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nonresident Charter Trip Fishing License**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated state implementation cost is \$850. No increase or decrease in workloads is anticipated from the implementation of this rule. Local government units would not be affected.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Effects on state revenue collection are estimated to be \$99,503 for license year 1998/99 and \$148,550 annually, thereafter. Local government unit revenue collections are not anticipated to be affected by the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Louisiana's nonresident recreational charter fishers will be affected by an increased license fee of \$12.50 per charter trip. The increase in license fee may also impact charter guide receipts by an undeterminable amount.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect on competition and employment in the public and private sectors is anticipated from the proposed rule change.

Ronald G. Couvillion
Undersecretary
9807#064

Richard W. England
Assistant to the
Legislative Fiscal Officer

Administrative Code Update

CUMULATIVE: JANUARY - JUNE 1998

LAC Title	Part.Section	Effect	Location LR 24 Month Page	LAC Title	Part.Section	Effect	Location LR 24 Month Page		
4	VII.Chapter 1	Amended	Feb 329	33	I.Chapters 45-57	Adopted	May 917		
	VII.911	Amended	May 936		I.5303	Repromulgated	Jun 1093		
	VII.1317	Amended	Jun 1111		III.509	Amended	Apr 654		
7	I.201-205	Adopted	Apr 626		III.551	Adopted	May 913		
	V.Chapter 16	Adopted	Apr 627		III.1109	Amended	Apr 652		
	V.2101-2115	Adopted	Jun 1081		III.Chapter 21	Amended	Jan 20		
	XXI.1501-1523	Adopted	Feb 282		III.2117	Amended	Feb 298		
	XXIII.Chapter 1	Amended	Feb 280		III.2139	Amended	May 917		
	XXV.121	Amended	Apr 631		III.5151	Amended	Jan 27		
	XXVII.101-149	Amended	Apr 624		III.5901	Amended	Apr 652		
10	XXXIX.101	Amended	Jun 1081		V.Chapters 1-49	Amended	Apr 655		
	13	XV.503	Adopted		Jun 1083	V.Chapters 1-49	Amended	Jun 1093	
		19	I.Chapter 70		Adopted	Mar 428	V.105,501	Amended	Feb 298
			II.Chapter 1		Amended	Mar 430	V.2201,2227	Amended	Feb 300
			II.901		Amended	Mar 430	V.3105	Amended	Feb 318
			II.903-915		Adopted	Mar 430	V.3881,3883	Adopted	Feb 320
			22		I.103	Amended	Feb 342	V.4901	Amended
I.335					Adopted	Jan 103	V.4905	Amended	Feb 325
III.5501	Adopted				May 936	V.10303	Amended	May 956	
III.Chapter 61	Adopted	May 935			VII.10407	Amended	Jan 27		
V.Chapter 1	Amended	Jun 1132			IX.1113	Amended	Apr 688		
XIII.103	Amended	Feb 327			IX.Chapter 13	Amended	Feb 326		
XIII.501	Repromulgated	Feb 328			IX.2201-2213	Amended	Jan 28		
28	XIII.503	Amended	Feb 328		34	III.901	Adopted	Feb 333	
	I.105,107	Amended	Jun 1093			IX.Chapters 1-31	Amended	Jan 30	
	I.107	Amended	Feb 283			IX.103	Repealed	Jan 30	
	I.906	Amended	Feb 295			IX.503	Repromulgated	Jan 32	
	I.909	Repromulgated	Feb 283			IX.1703-1707	Repromulgated	Jan 36	
	I.919	Amended	Mar 434			IX.2303	Adopted	Jan 38	
	I.930	Adopted	Feb 296			35	I.315	Amended	May 912
I.1523	Amended	Feb 297	XI.9937		Amended		May 912		
I.1709	Amended	Feb 296	37		III.505		Amended	Feb 333	
IV.Chapters 1-21	Adopted	Apr 632			III.703,707		Amended	Jun 1111	
VI.301	Amended	Mar 436		IX.101-123	Amended		Apr 625		
28	I.105,107	Amended	Jun 1093	42	III.115,116		Adopted	Apr 696	
	I.107	Amended	Feb 283		XI.2405		Amended	May 956	
	I.906	Amended	Feb 295		XIII.1701,2133	Amended	Feb 344		
	I.909	Repromulgated	Feb 283		XIII.2141,2169	Amended	Feb 344		
	I.919	Amended	Mar 434		XIII.2329	Adopted	May 956		
	I.930	Adopted	Feb 296		XIII.3301	Amended	May 956		
	I.1523	Amended	Feb 297						

LAC Title	Part.Section	Effect	Location LR 24 Month	Page
43	XI.Chapter 3	Amended	Feb	340
	XIX.Chapter 7	Amended	Mar	458
	XIX.Chapter 43	Adopted	Jan	102
46	I.1115	Amended	Jan	18
	I.1117	Amended	May	910
	I.1335	Amended	Jan	18
	XXXIII.Chaps. 1-17	Amended	Jun	1112
	XLI.709	Amended	May	912
	XLV.3103-3179	Amended	May	937
	LIII.1111	Amended	Apr	692
	LIII.Chapter 14	Adopted	Apr	689
	LIII.2929	Amended	Apr	688
	LIII.3531	Amended	Apr	689
	LX.503	Amended	Mar	437
	LX.901	Amended	Mar	448
	LX.Chapter 21	Amended	Mar	438
	LXVII.3401-3405	Amended	Jan	19
	LXVII 3407-3411	Repealed	Jan	19
	LXXXV.106	Amended	May	940
	LXXXV.305	Amended	May	941
	LXXXV.700, 701	Amended	May	941
LXXXV.700,702	Amended	May	940	
LXXXV.704	Amended	Feb	334	
LXXXV.711	Amended	Jan	41	
LXXXV.1063	Amended	Feb	335	
LXXXV.1105	Amended	May	942	
48	I.Chapter 25	Adopted	Mar	449
	I.Chapter 27	Adopted	May	948
	I.Chapter 43	Amended	Jan	109
	I.4561	Amended	Feb	336
	I.Chapters 97,98,99	Adopted	Jan	44
	V.7801-7811	Adopted	Apr	692
	V.Chapter 137	Amended	May	942
	IX.511	Adopted	Feb	335
	XXV.Chapter 3	Adopted	Jun	1123
	50	II.10147	Amended	May
II.10155		Amended	Mar	457
55	I.1511-1543	Amended	Jan	105
	III.351,355,365	Amended	Mar	475
	III.808	Amended	Mar	477
	III.Chapter 15	Adopted	Feb	345
	III.Chapter 17	Adopted	Mar	472
	V.521-553	Adopted	Apr	695
	VII.501	Adopted	Apr	702
	IX.Chapters 1-2	Amended	Mar	459
	IX.Chapter 12	Repealed	Mar	472

LAC Title	Part.Section	Effect	Location LR 24 Month	Page
58	I.101	Amended	Jan	120
	III.Chapters 1-13	Amended	Mar	499
	III.101,103,105	Repealed	Mar	499
	III.511,519	Amended	May	961
61	V.Chapters 1-35	Amended	Mar	477
67	I.101-107	Repealed	Feb	355
	I.1181	Repealed	Feb	355
	I.2913	Amended	Feb	356
	I.Chapter 51	Adopted	Feb	356
	III.403,405	Adopted	Jan	106
	III.1115	Amended	Jan	107
	III.Chapter 11	Amended	Feb	349
	III.1141,1143	Amended	Feb	348
	III.1503	Amended	Feb	353
	III.1701,Chapter 19	Amended	Jan	108
	III.1994,1995	Amended	Feb	354
	III.Chapter 25	Amended	May	957
	III.2514	Amended	Apr	703
	III.2751	Repealed	May	958
	III.2901,2913	Amended	Jun	1134
	III.2909	Amended	Feb	353
	III.3701,3704	Adopted	Feb	353
	III.3705	Repealed	Feb	353
	III.3707-3710	Adopted	Feb	354
V.401	Amended	Apr	702	
VII.107,115	Amended	May	958	
VII.305,307,329,331	Amended	Feb	494	
70	I.144	Adopted	May	960
	I.515	Adopted	May	960
	III.1901	Adopted	Jun	1136
73	III.Chapter 3	Adopted	Apr	703
76	I.149	Amended	Mar	505
	I.327	Adopted	Mar	505
	V.117	Adopted	Jun	1140
	VII.335	Amended	Jun	1138
	VII.335	Amended	Jun	1139
	VII.341	Amended	Feb	360
	VII.343	Amended	Feb	359
	VII.405	Amended	Feb	359
	VII.407	Adopted	Apr	710
VII.409	Adopted	May	964	
VII.901	Amended	May	962	

Potpourri

POTPOURRI

Department of Civil Service Board of Ethics

Drug Testing of Elected Officials Public Hearing

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:968H(2), that the Department of Civil Service, Board of Ethics, will hold a public hearing at 9 a.m., Thursday, August 20, 1998, at the Louisiana Retirement Systems Building, 8401 United Plaza Boulevard, Fourth Floor, Baton Rouge, Louisiana, for the purpose of receiving public comments on substantive changes to the proposed rules for the random drug testing of elected officials as required by Section 1116.1 of the *Code of Governmental Ethics* (R.S. 42:1116.1).

At the hearing all interested persons may appear and present data, views, arguments, information or comments on the changes to the proposed rules, which were previously published by notice of intent in the February 20, 1998 edition of the *Louisiana Register*, Volume 24:363-366.

Interested persons may obtain a copy of the changes to the proposed rules from and/or submit written comments to R. Gray Sexton, Board of Ethics, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, Louisiana 70809-7017, telephone (504) 922-1400. Written comments will be accepted through August 19, 1998.

R. Gray Sexton
Ethics Administrator

9807#091

POTPOURRI

Department of Elections and Registration Commissioner of Elections

Elections and Registration Information Network— Registrar of Voters User Manual (LAC 31:II.301)

A hearing will be held on Tuesday, August 25, 1998 at the Radisson Hotel and Conference Center, Riverboat Room, 4728 Constitution Avenue, Baton Rouge, LA, at 11 a.m. to consider substantive changes made to the proposed rule for the Elections and Registration Information Network Registrar of Voters User Manual as published in the *Louisiana Register*, Volume 24, Number 3, March 20, 1998. All interested persons will be afforded an opportunity to present their views orally at said hearing.

Copies of the changes may be obtained from the Department of Elections and Registration, 4888 Constitution Avenue, Baton Rouge, LA, from 8 a.m. to 4:30 p.m., Monday through Friday, or may be requested by mail by writing to the

department at Box 14179, Baton Rouge, LA 70898-4179.

Interested persons may submit written comments on the substantive changes to the proposed rule until 4:30 p.m. on Friday, August 21, 1998 to Jerry M. Fowler, Commissioner of Elections, Department of Elections and Registration, Box 14179, Baton Rouge, LA 70898-4179.

Jerry M. Fowler
Commissioner

9807#092

POTPOURRI

Department of Elections and Registration Commissioner of Elections

Procurement of Voting Machine Drayage (LAC 31:III.Chapter 7; Repeal §§737 and 739)

A hearing will be held on Tuesday, August 25, 1998 at the Radisson Hotel and Conference Center, Riverboat Room, 4728 Constitution Avenue, Baton Rouge, LA, at 10 a.m. to consider substantive changes made to the proposed rule for the Procurement of Voting Machine Drayage as published in the *Louisiana Register*, Volume 24, Number 3, March 20, 1998. All interested persons will be afforded an opportunity to present their views orally at said hearing.

Copies of the changes may be obtained from the Department of Elections and Registration, 4888 Constitution Avenue, Baton Rouge, LA, from 8 a.m. to 4:30 p.m., Monday through Friday, or may be requested by mail by writing to the department at Box 14179, Baton Rouge, LA 70898-4179.

Interested persons may submit written comments on the substantive changes to the proposed rule until 4:30 p.m. on Friday, August 21, 1998 to Jerry M. Fowler, Commissioner of Elections, Department of Elections and Registration, Box 14179, Baton Rouge, LA 70898-4179.

Jerry M. Fowler
Commissioner

9807#093

POTPOURRI

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

Hospital/Medical/Infectious Waste Incinerators [Section 111(d)] Request for Public Comment

Under the authority of the Louisiana Environmental Quality Act, LA R.S. 30:2001 et seq. and in accordance with the provisions of the Administrative Procedure Act, LA R.S. 49:950 et seq., the Secretary gives notice that a section 111(d)

plan is proposed for Hospital, Medical, Infectious Waste Incinerators in Louisiana. Section 111(d) plans set forth requirements and procedures which states must follow to control a certain class of pollutants known as "designated pollutants." Designated pollutants are those for which ambient air quality standards have not been established and are not listed as hazardous under section 112.

This document establishes emission standards for designated pollutants from designated facilities and provides for the implementation and enforcement of such emission standards. Louisiana has adopted, by reference, the Hospital, Medical, Infectious Waste Incinerators standards promulgated by the United States Environmental Protection Agency, which were published in the September 15, 1997, *Federal Register*. The public comment period begins on July 20, 1998, and ends on August 31, 1998.

A public hearing will be held at 1:30 p.m. on August 24, 1998, in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral or written comments on the section 111(d) plan. Other written comments should be submitted no later than 4:30 p.m., August 31, 1998, to Annette Sharp, Air Quality Regulatory Division, Box 82135, Baton Rouge, LA 70884-2135. Ms. Sharp may be contacted at (504) 765-0908.

A copy of the section 111(d) plan may be viewed at the following DEQ office locations from 8 a.m. to 4:30 p.m., Monday through Friday: Air Quality Regulatory Division, 7290 Bluebonnet, Second Floor, Baton Rouge, LA; 5222 Summa Court, Baton Rouge, LA; 100 Asma Boulevard, Suite 151, Lafayette, LA; 804 Thirty-first Street, Suite D, Monroe, LA; 3501 Chateau Boulevard, West Wing, Kenner, LA; 3519 Patrick Street, Room 265A, Lake Charles, LA; or 1525 Fairfield, Room 11, Shreveport, LA.

Gustave Von Bodungen, P.E.
Assistant Secretary

9807#094

POTPOURRI

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

MSW Landfill [Section 111(d)]
Request for Public Comment

Under the authority of the Louisiana Environmental Quality Act, LA R.S. 30:2001 et seq. and in accordance with the provisions of the Administrative Procedure Act, LA R.S. 49:950 et seq., the Secretary gives notice of a revision to the existing section 111(d) plan for Municipal Solid Waste Landfills in Louisiana. Section 111(d) plans set forth requirements and procedures which states must follow to control a certain class of pollutants known as "designated pollutants." Designated pollutants are those for which ambient air quality standards have not been established and are not listed as hazardous under section 112.

This revision establishes deadlines required in the emission standard published in the March 12, 1996, *Federal Register*. The public comment period for this revision begins on July 20, 1998, and ends on August 31, 1998.

A public hearing will be held at 1:30 p.m. on August 24, 1998, in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral or written comments on the revisions to the section 111(d) plan. Other written comments concerning this revision should be submitted no later than 4:30 p.m., August 31, 1998, to Annette Sharp, Air Quality Regulatory Division, Box 82135, Baton Rouge, LA 70884-2135. Ms. Sharp may be contacted at (504) 765-0908.

A copy of the revision to the section 111(d) plan may be viewed at the following DEQ office locations from 8 a.m. to 4:30 p.m., Monday through Friday: Air Quality Regulatory Division, 7290 Bluebonnet, Second Floor, Baton Rouge, LA; 5222 Summa Court, Baton Rouge, LA; 100 Asma Boulevard, Suite 151, Lafayette, LA; 804 Thirty-first Street, Suite D, Monroe, LA; 3501 Chateau Boulevard, West Wing, Kenner, LA; 3519 Patrick Street, Room 265A, Lake Charles, LA; or 1525 Fairfield, Room 11, Shreveport, LA.

Gustave Von Bodungen, P.E.
Assistant Secretary

9807#095

POTPOURRI

**Department of Health and Hospitals
Board of Veterinary Medicine**

1998 Fall/Winter Examination Dates

The Louisiana Board of Veterinary Medicine will administer the national and state examination for licensure to practice veterinary medicine on the following dates:

EXAMINATION	DATE	DEADLINE TO APPLY
National Board	Second Tuesday of December Tuesday, December 8, 1998	Friday, October 23, 1998
Clinical Competency Test	Second Wednesday of December Wednesday, December 9, 1998	Friday, October 23, 1998
State Board	First Tuesday of Every Month	No less than two weeks prior to desired exam date

Applications for all examinations must be received on or before the deadline. Applications and information may be obtained from the board office at 263 Third Street, Suite 104, Baton Rouge, LA 70801 or by calling (504)342-2176.

Charles B. Mann
Executive Director

9807#015

POTPOURRI

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

Nursing Facility Reimbursement

Effective for dates of service July 1, 1998 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has established the following reimbursement rates for nursing facility levels of care.

LEVEL OF CARE	DAILY	MONTHLY
Skilled Nursing	\$ 67.46	\$ 2,051.91
Intermediate Care I	\$ 64.75	\$ 1,969.48
Intermediate Care II	\$ 64.75	\$ 1,969.48
Skilled Nursing—Infectious Disease	\$ 247.56	\$ 7,529.95
Skilled Nursing—Technology Dependent Care	\$ 157.51	\$ 4,790.93

It should be noted that the above rates include a provider fee of \$4.22. If additional information is required, please contact John Marchand at (504) 342-6116.

David W. Hood
Secretary

9807#098

POTPOURRI

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

Private Intermediate Care Facilities-MR

Effective for dates of service July 1, 1998 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has established the following reimbursement rates for private intermediate care facilities for the mentally retarded:

Level of Care	1-8 Beds Per Diem Rate	1-8 Beds Monthly Rate	9-32 Beds Per Diem Rate	9-32 Beds Monthly Rate	33+ Beds Per Diem Rate	33+ Beds Monthly Rate
2	\$113.61	\$3,455.64	\$92.06	\$2,800.16	\$81.90	\$2,491.13
3	\$122.65	\$3,730.60	\$99.23	\$3,018.25	\$88.19	\$2,682.45
4	\$127.65	\$3,882.69	\$107.02	\$3,255.19	\$95.02	\$2,890.19
5	\$133.85	\$4,071.27	\$115.49	\$3,512.82	\$102.45	\$3,116.19
6	\$137.06	\$4,168.91	\$124.70	\$3,792.96	\$120.05	\$3,651.52
7	\$150.13	\$4,566.45	\$147.49	\$4,486.15	\$128.88	\$3,920.10

It should be noted that the above rates include a provider fee of \$9.62. If additional information is required, please contact John Marchand at (504) 342-6116.

David W. Hood
Secretary

9807#099

POTPOURRI

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

Private Intermediate Care Facilities-MR (Retroactive)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adjusts per

diem rates in accordance with the reimbursement methodology established for private intermediate care facilities for the mentally retarded (*Louisiana Register*, Volume 15, Number 10).

Reimbursement rates have been revised retroactive to dates of service July 1, 1997 as indicated below, which include a provider fee of \$9.62. Any claim paid at the previous rate will be automatically adjusted by the Fiscal Intermediary as follows:

Level of Care	1-8 Beds Per Diem Rate	1-8 Beds Monthly Rate	9-32 Beds Per Diem Rate	9-32 Beds Monthly Rate	33+ Beds Per Diem Rate	33+ Beds Monthly Rate
2	\$113.40	\$3,449.25	\$91.56	\$2,784.95	\$81.43	\$2,476.83
3	\$122.42	\$3,723.61	\$98.68	\$3,001.52	\$87.67	\$2,666.63
4	\$127.12	\$3,866.57	\$106.42	\$3,236.94	\$94.46	\$2,873.16
5	\$133.24	\$4,052.72	\$114.84	\$3,493.05	\$101.84	\$3,097.63
6	\$136.34	\$4,147.01	\$123.99	\$3,771.36	\$119.33	\$3,629.62
7	\$149.38	\$4,543.64	\$146.73	\$4,463.04	\$128.11	\$3,896.68

If additional information is required, please contact John Marchand at (504) 342-6116.

David W. Hood
Secretary

9807#100

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	Well Name	Well Number	Serial Number
Aladdin Energy Inc.	DeQuincy	Daisy P Kanouse	001	041837
Aladdin Energy Inc.	DeQuincy	Daisy P Kanouse	002	043370
Aladdin Energy Inc.	DeQuincy	Edgewood L and L Company SWD	001	970799
Aladdin Energy Inc.	DeQuincy	Edgewood L and L Company B SWD	002	039811
Aladdin Energy Inc.	DeQuincy	Boise Cascade	001	198083
Aladdin Energy Inc.	DeQuincy	Boise Southern	002	200296
Aladdin Energy Inc.	DeQuincy	Boise Southern	001	194287
Aladdin Energy Inc.	DeQuincy	N RA SUG;EL and LB	004	040950
Aladdin Energy Inc.	DeQuincy	Janus Fee	001	214753
Aladdin Energy Inc.	DeQuincy	Labokay Corp	001	205889
Aladdin Energy Inc.	DeQuincy	Boise Southern R	001	196863
Aladdin Energy Inc.	DeQuincy	S J Iles	001	046285
Aladdin Energy Inc.	DeQuincy	Temple Inland	001	218454
Aladdin Energy Inc.	DeQuincy	N RA SUC;EL and LB	003	040041
C. G. Buettner et al	Zwolle	R G Greer	001	115064
Cajun Minerals, Inc.	Napoleonville	VUA;Armélise	001	069060

Central Oil Company	Helena	S D and M B Watson	001	092253
Colt Production Corp. Inc.	Rousseau	RDGFLD RG SUA;Plater	001	168258
George Dausch and Assoc., Inc.	Potash	Elizabeth McCurdy	001	046116
D. L. Gish Oil, Inc.	Sarepta	H Payne	001	209540
D. L. Gish Oil, Inc.	Sarepta	International Paper Co	001	203134
Hochendel Consultants	Leeville	Allen Land Company	007	017264
Hochendel Consultants	Leeville	Allen Land Company	009	018719
J. W. Lee	Leeville	E S Bernard et al	001	016982
Magnolia Petroleum Co.	Wildcat	State Lease 1172	A-1	049477
L. I. Mistrot d/b/a Latex Gulf Oil Company	Leeville	Vizier	005	017302
New Horizon Exploration, Inc.	North Cankton	C Hundley et al	001	219800
Nicklos OandG-Vincent and Welch Inc.	Richie	S J Morris	1A	037452
Oil and Gas Futures, Inc.	Bayou Tommy	Slack Brothers Inc	001	133208
S Enterprises	Cotton Valley	T A Glass	001	050411
Texas Pacific Oil Co.	East Hackberry	J B Watkins	014	012688
Texas Pacific Oil Co.	East Hackberry	J B Watkins	049	026184
Texas Pacific Oil Co.	East Hackberry	J B Watkins	047	025809
Texas Pacific Oil Co.	East Hackberry	J B Watkins	064	121415
Texas Pacific Oil Co.	East Hackberry	J B Watkins	052	032418
Texas Pacific Oil Co.	East Hackberry	J B Watkins	017	013558
Texas Pacific Oil Co.	East Hackberry	J B Watkins	033	015133
Texas Pacific Oil Co.	East Hackberry	J B Watkins	61D	094012
Tri-State Expl. and Prod. Inc.	Aloha	Mabel Fletcher	001	161440
Tri-State Expl. and Prod. Inc.	Aloha	Mabel Fletcher SWD	A-1	186911
Tri-State Expl. and Prod. Inc.	Colfax	FL RA SUD;Vallee	003	163059
Tri-State Expl. and Prod. Inc.	Colfax	Vallee et al SWD	001	163486
Tri-State Expl. and Prod. Inc.	Colfax	FL RA SUC;Vallee	001	211283
Westen Oil and Gas, Inc.	Section 28	St Martin Land Co B	006	215361

Philip N. Asprodites
Commissioner

9807#084

POTPOURRI

**Department of Natural Resources
Office of the Secretary**

Public Hearing—Oyster Lease Relocation Program

Due to the unavailability of the previously announced

location, the public hearing scheduled for 5:00 p.m., Thursday, July 30, 1998 (see Notice of Intent published in the June 1998 *Louisiana Register*, pages 1187-1192) has been moved to the Powell Hall Auditorium, on Glennwood Drive, Nicholls State University, Thibodaux, Louisiana.

However, the comment period in this proposed rule will continue through the close of business at 5:00 p.m., July 30, 1998.

Additionally, the Office of the Secretary is notifying the public of this change through newspapers in the major metropolitan cities of Louisiana and through the department's home page on the World Wide Web.

The Office of the Secretary regrets any inconvenience caused by this change in the public hearing.

Jack C. Caldwell
Secretary

9807#038

POTPOURRI

Department of Public Safety and Corrections Board of Parole

Sexually Violent and Child Predator—Public Hearings

In accordance with the laws of the State of Louisiana and with particular reference to the provisions of LSA-R.S. 15:574, notice is hereby given that the Louisiana Board of Parole will conduct public hearings in all municipalities with a population of not less than 50,000. At such hearing, the Board of Parole will receive information and input from the public relative to sex offenders, sexually violent predators and child predators. The Board of Parole will consider which rules, regulations, policies and guidelines they should adopt,

and what information regarding sex offenders, sexually violent predators and child predators should be disclosed and/or released to the public.

The hearing for the City of Bossier will be held on Tuesday, August 11, 1998 from 6 p.m. to 7 p.m. in the Bossier Police Department, Training Center, 1549 East Texas Street, Bossier, LA.

The hearing for the City of Metairie will be held on Wednesday, August 19, 1998 from 5 p.m. to 6 p.m. in the First Parish Court, Division "B," 924 David Drive, Metairie, LA.

The hearing for the City of Kenner will be held on Friday, August 28, 1998 from 5 p.m. to 6 p.m. in the Kenner City Hall, Council Chambers, 1801 Williams Boulevard, Kenner, LA.

All interested persons will be afforded an opportunity to present data or views, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., September 28, 1998, at the Baton Rouge office. Comments should be directed to the Board of Parole, P.O. Box 94304, Baton Rouge, Louisiana 70804-9304, Re: Sexual Predator Law.

Fred Clark
Chairman

9807#089

CUMULATIVE INDEX
(Volume 24, Number 7)

<i>Pages</i>	<i>1998</i>	<i>Issue</i>
1 — 263	January
264 — 408	February
409 — 596	March
597 — 888	April
889 — 1050	May
1051 — 1219	June
1220 — 1477	July

EO — Executive Order
PPM — Policy and Procedure Memorandum
ER — Emergency Rule
R — Rule
N — Notice of Intent
C — Committee Report
L — Legislation
P — Potpourri

ADMINISTRATIVE CODE UPDATE

Cumulative

January 1997 - December 1997, 252
 January 1998 - March 1998, 879
 January 1998 - June 1998, 1465

AGRICULTURE AND FORESTRY

Agricultural and Environmental Sciences, Office of

Annual quarantine list, 880P
 Boll weevil, 401P
 Furadan 3G, 1069ER
 Landscape architecture, 255P, 401P
 Pest control donation, 507N, 1070ER, 1262R
 Pesticide, 280R, 1223ER, 1224ER, 1328N
 Retail floristry, 401P, 1037P
 Self-insurance, 624R
 Termite, 401P
 Wood destroying insect, 631R

Agro-Consumer Services, Office of

Weighing/measuring device, 711N

Commissioner, Office of the

Alternative livestock, 268ER, 282R, 896ER, 965N
 Brucellosis, 902ER, 965N
 Commodity, 624R
 Forest productivity, 967N
 Registration fee, 626R
 Self-insurance, 624R
 Sweet potato, 1037P, 1081R

Forestry Commission

Timber stumpage, 121N, 1081R, 1327N

Marketing, Office of

Meat, 627R
 Poultry, 627R
 Seafood, 627R
 Sweet potato, 361N, 1081R

CIVIL SERVICE

Board of Ethics

Drug testing, 363N, 1467P

Civil Service Commission

Noncompetitive classes, 366N
 Performance Planning and Review (PPR), 508N

ECONOMIC DEVELOPMENT

Architectural Examiners, Board of

Certificate, 1141N
 Continuing education, 910R
 Limited liability company, 18R
 Prepared document, 18R
 Seal/stamp, 1141N

Boxing and Wrestling Commission

Boxing
 Compensation, 1070ER
 Fouls, 1070ER
 Hold harmless agreement, 1070ER
 Judge/referee, 1070ER
 Judging method, 1070ER
 Ring official, 1070ER
 Televised broadcast, 1070ER

Wrestling
 Booking agent, 1070ER
 Deposits, 1070ER
 Promoter, 1070ER

Financial Institutions, Office of

Security monies, 411ER, 508N, 1083R

Racing Commission

Apprentice contract, 1232ER, 1331N
 Blanks, 912R
 Contract extension, 912R
 Coupled entry, 903ER, 971N
 Daily Double, 1233ER, 1331N
 Entries, 1143N
 Envelopes, 912R
 Fields, 903ER, 971N, 1233ER, 1331N
 Horse under investigation, 712N
 Minors, 912R
 Pari-Mutuel, 3ER, 711N, 903ER
 Trifectas, 3ER

Real Estate Commission

Agency disclosure, 19R

Secretary, Office of the

Economic Development Award Program, 1224ER, 1329N
 Economically Disadvantaged Business Development Program, 430R
 Regional Initiatives Program, 428R, 1227ER, 1329N
 Small Business Bonding Program, 428R
 Workforce development/training, 412ER, 1229ER, 1330N

Used Motor Vehicle and Parts Commission

Licensure, 1143N
 Meetings, 1143N

EDUCATION

Elementary and Secondary Education, Board of

Bulletin 741
 GED requirements, 713N
 Music lesson, 366N, 1085R
 Nonpublic school, 367N, 1085R
 Science, 1145N

Bulletin 746
 Dance certification, 1332N
 Elementary Teacher, 1333N
 Family/consumer science, 373N, 1091R
 Graduate jobs, 283R
 Total Quality Management (TQM), 508N

Bulletin 904
 Charter school, 971N

Bulletin 1196
 Snack concession, 374N, 631R

Bulletin 1443
 Proprietary School Commission, 1334N

Bulletin 1566
 Pupil Progression, 1335N

Bulletin 1706
 Exceptional children, 283R

Bulletin 1794
 Textbook grievance, 434R

Bulletin 1868
 Personnel Manual, 434R

Bulletin 1882
 Principal/assistant principal internship, 375N, 1092R

Bulletin 1934
 Preschool, 295R

Bulletin 1943
 Teacher Assessment, 1342N

Bulletin 1947
Business Education, 1343N
Board committees, 714N
Components, 1344N
Content standards, 296R
Minimum Foundation Program (MFP), 296R
Noncertified personnel, 1344N
Post-Baccalaureate appeal, 282R
School psychologist, 375N, 1092R
Vo-tech school, 297R, 509N

Student Financial Assistance Commission

Advisory committee, 435R
Bylaws, 714N, 1262R
Tuition Opportunity Program for Students (TOPS), 122N, 631R, 1233ER, 1345N

Tuition Trust Authority

START Saving, 436R, 719N, 1267R

ELECTIONS AND REGISTRATION

Commissioner, Office of the

Registrar user manual, 510N, 1467P
Voting machine, 511N, 1467P

ENVIRONMENTAL QUALITY

Air Quality and Radiation Protection, Office of

AQ140 Lead-based paint, 980N
AQ149 Organic compound emission, 20R, 298R
AQ160 Hazardous air pollutant, 1283R
AQ163 Asbestos, 26R
AQ164 Significant deterioration/public inspection, 653R
AQ166 Open burning, 652R
AQ167 Refinery vacuum producing system, 148N, 917R
AQ168 Hazardous Air Pollutant (HAP), 144N, 913R
AQ169 Toxic air pollutant emission control, 142N, 1276R
AQ170 Chemical accident, 376N, 651R
AQ171 New stationary sources, 981N, 1284R
AQ172 Federal transportation conformity, 974N, 1279R
AQ173 Federal transportation conformity, 978N
AQ174 Emissions, 972N, 1277R

Clean fuel fleet program, 1208P

Flash gas, 1208P

Lafourche Parish, 402P

MSW landfill, 1468P

PM_{2.5} monitor siting plan, 1037P

St. James Parish, 255P

State Implementation Plan (SIP), 255P, 402P

Waste incinerators, 1467P

Legal Affairs and Enforcement, Office of

Regulatory agenda, 882P

Secretary, Office of the

OS007 Laboratory accreditation, 149N, 256P, 917R, 1038P, 1093R

OS021 Risk evaluation/corrective action, 728N

OS023 Reportable quantity list, 259P, 514N, 1289R

OS024 Recycling equipment, 27R

Waste Services, Office of

HW059 Universal waste, 985N

HW060 RCRA updates, 298R

HW061 RCRA updates, 165N, 377N, 654R, 1289R

HW063 Rules recodification, 738N, 1093R

HW064 RCRA, 1346N

HW065 Small quantity generator, 754N

Water Resources, Office of

WP026 Water pollution control fee system, 326R

WP027 Drinking water, 28R

WP028 Bacteria criteria, 687R

WP029 Mermentau River Basin, 1146N

Water pollution control, 402P

EXECUTIVE ORDERS

MJF 98-1 Mississippi River Corridor Task Force, 1EO
MJF 98-2 DWI/Vehicular Homicide Task Force, 264EO
MJF 98-3 Mississippi River Corridor Task Force, 264EO
MJF 98-4 Computer Systems—Year 2000 Compliant, 265EO
MJF 98-5 Bond Allocation—Parish of Grant, 265EO
MJF 98-6 Transportation Infrastructure Model for Economic Development Review Task Force, 266EO
MJF 98-7 Latin American Business Development

Commission, 409EO
MJF 98-8 Bond Allocation—Industrial Development Board of the Parish of Ouachita, 409EO
MJF 98-9 Latin American Business Development Commission, 410EO
MJF 98-10 Interstate 49 South Project Task Force, 597EO
MJF 98-11 Abstinence Education Project, 597EO
MJF 98-12 Governor's Arson Strike Force, 598EO
MJF 98-13 SECURE Review Commission, 599EO
MJF 98-14 Louisiana Stadium and Exposition District (LSED), 600EO
MJF 98-15 Louisiana Distance Learning Network Advisory Board, 889EO
MJF 98-16 Bond Allocation—Louisiana Local Government Environmental Facilities and Community Development Authority, 890EO
MJF 98-17 DWI/Vehicular Homicide Task Force, 891EO
MJF 98-18 Latin American Business Development Commission, 891EO
MJF 98-19 Bond Allocation—Louisiana Housing Finance Agency, 891EO
MJF 98-20 Procurement of Small Purchases, 892EO
MJF 98-21 Bond Allocation—Louisiana Local Government Environmental Facilities and Community Development Authority, 894EO
MJF 98-22 Bond Allocation—Louisiana Public Facilities Authority, 1051EO
MJF 98-23 Unclassified State Employee Leave, 1051EO
MJF 98-24 Bond Allocation—Parish of Jefferson Home Mortgage Authority, 1057EO
MJF 98-25 Bond Allocation—Calcasieu Parish Public Trust Authority, 1058EO
MJF 98-26 Bond Allocation—Rapides Finance Authority, 1058EO
MJF 98-27 Bond Allocation—New Orleans Home Mortgage Authority, 1059EO
MJF 98-28 Bond Allocation—East Baton Rouge Mortgage Finance Authority, 1059EO
MJF 98-29 Interstate 49 South Project Task Force, 1060EO
MJF 98-30 Latin American Business Development Commission, 1060EO
MJF 98-31 Louisiana Historical Records Advisory Board, 1220EO
MJF 98-32 Chief Information Officer, 1221EO

FIREFIGHTERS' PENSION AND RELIEF FUND

City of New Orleans and Vicinity

Death benefit, 379N, 1110R

Domestic relations orders, 199N, 933R

Election, 1148N

GAMING (also see Public Safety)

Louisiana Lottery Corporation

On-line lottery, 989N

GOVERNOR'S OFFICE

Administration, Division of

Architects Selection Board

Application, 329R

Meeting dates, 329R

Voting, 329R

Commissioner, Office of the

General travel, 1062PPM

Community Development, Office of

HUD hearings, 1209P

Facility Planning and Control, Office of

Public contract, 333R

Property Assistance Agency

Federal property assistance, 30R

Crime Victims Reparations Board

Awards, 327R

Definitions, 327R

Elderly Affairs, Office of

Adult protective service, 1149N

Aging state plan, 516N, 1110R

Long term care, 1152N, 1153N

Nutrition, 1419N

Senior center, 414ER

Senior employment, 1155N

Law Enforcement and Administration of Criminal Justice, Commission on

Asset forfeiture, 202N, 935R

Medal of honor, 1208P

Uniform crime reporting, 936R

Oil Spill Coordinator's Office
 Natural resource damage, 517N, 1040P, 1041P

Patient's Compensation Fund Oversight Board
 Actuarial study, 380N, 1111R
 Asset forfeiture, 202N
 Financial responsibility, 333R

Rural Development, Office of
 Projects funding/application, 274ER, 755N, 1290R

State Employees Group Benefits Program, Board of Trustees of the
 [Note: See also Treasury Department]
 Diabetes, 1257ER

Veteran's Affairs, Office of
 Travel, 379N, 936R

HEALTH AND HOSPITALS

Citizens with Developmental Disabilities, Office for
 Developmental center, 335R

Dentistry, Board of
 Comprehensive revisions, 203N, 381N, 1112R, 1292R
 Mobile dental clinic, 991N

Embalmers and Funeral Directors, Board of
 Exam, 404P, 881P

Licensed Professional Counselors Board of Examiners
 Appraisal, 437R
 Conduct code, 438R
 Fees, 448R
 Licensure, 757N, 1293R

Louisiana State University Medical Center
 Tumor registry, 759N, 1295R

Medical Examiners, Board of
 Advisory committee, 937R
 Athletic trainer, 937R
 Clinical exercise physiologist, 992N
 License, 526N, 539N, 882P
 Occupational therapist, 993N
 Occupational therapy assistant, 993N
 Physician, 995N
 Physician assistant, 883P, 994N
 Podiatrist, 996N
 Practice, 539N
 Registered dispensing physician, 998N
 Respiratory therapist, 999N
 Respiratory therapy technician, 999N
 Surgeon, 995N

Nursing, Board of
 Comprehensive revisions, 382N, 1293R

Pharmacy, Board of
 Pharmacy records, 212N, 688R
 Prescription transmission, 216N, 692R
 Provisional community pharmacy, 213N, 689R
 Schedule drug prescription, 214N, 689R

Physical Therapy Examiners, Board of
 Licensure, 39R
 Supervision, 39R
 Unauthorized practice, 39R

Public Health, Office of
 Data Clearinghouse, 1422N
 Drinking water, 221N, 692R
 Lab service, 383N, 942R
 Public water, 1158N
 Sanitary Code
 Milk product, 41R
 Shellfish, 3ER

Secretary, Office of the
 Ambulatory surgical center, 336R, 1162N
 Capital Area Human Services District, 948R
 Departmental research, 225N, 449R
 Developmentally disabled, 5ER, 456R
 Disproportionate share, 414ER, 454R, 764N
 Early Periodic Screening, Diagnosis, and Treatment (EPSDT), 336R
 Facility Need Review
 Bed need, 225N
 Facility sanctions, 1435N
 Home/community based service, 42R
 Home health, 276ER, 904ER
 Informed consent, 800N, 1304R
 Maternal and Child Health Block Grant, 1161N
 Medicaid
 Alien, 389N, 601ER, 1119R
 Children SSI, 1438N
 Cochlear device, 797N, 1300R
 Electric wheelchair, 1000N
 Hemophilia, 1073ER, 1439N
 Home and community based service, 5ER, 457R
 LaChip, 1440N

Long term care, 5ER, 457R
 Low income family, 1441N
 Surveillance/utilization review, 1163N
 Twelve-month eligibility, 1442N
 Medically needy, 277ER, 955R
 Medicare, 278ER, 799N, 905ER, 1304R
 Mental health, 226N, 337R, 1301R
 Mentally retarded, 5ER, 66R, 456R, 765N, 1469P
 Nursing facility, 230N, 457R, 954R, 1469P
 Nursing home, 44R
 Pharmacy program
 Erectile dysfunction, 1074ER, 1442N
 Overhead cost, 1258ER
 Psychiatric service, 229N, 1120R
 Targeted case management, 1183N

Veterinary Medicine, Board of
 Board meetings, 404P
 Boarding/Nonboarding animal, 217N, 939R
 Complaint, 546N
 Complaint review committee, 219N, 940R
 Controlled substances, 334R
 Exam, 259P, 1468P
 License, 219N, 941R
 Livestock, 1156N
 Mobile clinic, 546N, 1421N
 Over-the-counter drugs, 220N, 941R
 Preceptorship, 546N, 942R, 1293R
 Prescription, 1156N
 Specialty list, 335R
 Subpoena, 1156N
 Veterinary facility, 41R

INSURANCE

Commissioner, Office of the
 Reg 28 Variable contract, 67R
 Reg 33 Medicare supplement insurance, 70R
 Reg 63 Medical/genetic information, 232N, 1120R
 Reg 64 Vehicle breakdown insurer, 548N, 1123R
 Reg 65 Bail bond/bounty hunter, 906ER, 1184N

JUSTICE

Attorney General, Office of the
 Nonprofit hospital, 549N, 1123R

LABOR

Plumbing Board
 Examination, 1186N, 1187N
 Medical gas, 339R

LEGISLATURE

House of Representatives
 HCR 2—Professional Engineers and Land Surveyors Seal, 1207L

NATURAL RESOURCES

Conservation, Office of
 Austin Chalk Formation, 102R
 Drug test, 558N, 1306R
 Fees, 458R
 Hazardous liquid, 567N, 1313R
 Natural gas pipeline, 559N, 1306R
 Oilfield waste facility, 260P, 260P, 1214P, 1215P
 Orphaned oilfield, 259P, 404P, 591P, 883P, 1041P, 1210P, 1470P
 Pollution, 417ER
 Underwater obstruction, 339R

Secretary, Office of the
 Oyster lease, 235N, 1187N, 1471P

PUBLIC SAFETY AND CORRECTIONS

Corrections Services
 Adult facility transfer, 103R
 Death penalty, 342R
 Sex offender, 802N

Gaming Control Board
 Appeals, 695R
 Declaratory order/ruing, 695R

Hearings, 1193N
Riverboat gaming
Definitions, 344R
Internal control, 806N, 1315R
License, 344R
Permit, 344R
Security, 955R

Surveillance, 955R
Tips/gratuities, 806N, 1315R
Vendor, 955R
Video Poker
Application, 955R
Code of conduct, 1001N
Gaming establishment, 391N
License, 955R

Liquefied Petroleum Gas Commission

Container manufacturer, 459R
Dealer, 459R
Forms/reports, 459R
New dealer, 459R
Public assembly places, 459R
Schools, 459R
Standards, 459R

Motor Vehicles, Office of

Auto title company, 345R
Compulsory insurance, 472R, 1001N
Driver's license, 807N, 1316R
Vehicle registration, 475R

Pardons, Board of

Clemency, 569N, 1132R

Parole, Board of

Board
Decisions, 602ER, 802N
Ethics, 602ER, 802N
Meetings, 602ER, 802N
Child predator, 1044P, 1472P
Parole
Conditions, 602ER, 802N
Eligibility, 602ER, 802N
Suspension, 602ER, 802N
Termination, 602ER, 802N
Time served, 602ER, 802N
Types, 602ER, 802N
Violations, 602ER, 802N
Sexually violent predator, 1044P, 1472P

Private Investigator Examiners, Board of

License, 1192N

State Fire Marshal, Office of the

Boilers, 1012N
Manufactured housing, 239N, 695R

State Police, Office of

Explosive code, 105R
Hazardous materials, 392N, 956R, 1443N
Inspection station, 476R
Motor safety, 1443N

REVENUE AND TAXATION

Alcohol and Tobacco Control, Office of

Alcoholic beverage, 1193N
Permit, 422ER, 809N, 811N, 1318R, 1319R
Responsible vendor, 245N, 702R, 1075ER, 1444N

Severance Tax Commission

Natural gas, 884P

Tax Commission

Ad Valorem tax, 477R
Timber stumpage, 121N, 1081R, 1327N
Whole residential property ratio study, 1045P

SOCIAL SERVICES

Community Services, Office of

Adoption, 246N, 702R
Emergency shelter, 592P
Social Services Block Grant (SSBG), 885P
Weatherization, 405P

Family Support, Office of

Child care, 8ER, 355R
Child support, 246N
Electronic Benefits Transfer (EBT), 106R, 816N, 1322R
Family Independence Temporary Assistance Program (FITAP)
Alien, 6ER, 348R
Cash Assistance, 908ER, 1195N
Disqualifications, 908ER
Drug test, 814N, 1323R
Individual development account, 107R
Individual and family grant, 1449N
Refugee, 349R
Family Independence Work Program (FIND Work)
Activities, 572N, 1134R
Organization, 572N, 1134R
Participation, 1196N
Services, 572N, 1134R
Food stamps

Alien, 7ER, 354R
Case action, 107R
Deduction, 107R
Disqualifications, 908ER, 1197N
Support enforcement, 393N, 618ER, 703R, 957R, 1450N
Rehabilitation Services, Office of
Appeal rights, 394N
Community Rehabilitation Program, 1032N
Deaf Commission role/function/composition, 494R
Rehabilitation technology, 394N
Vocational Rehabilitation Policy Manual, 958R

Secretary, Office of the

Adult care
Day care, 109R
Residential care, 817N
Child care
Assistance, 8ER, 355R
Day care, 573N
Residential care, 836N

TRANSPORTATION AND DEVELOPMENT

Division of Aviation

Project needs/priority, 862N

General Counsel, Office of the

Cash management, 586N, 1324R
Outdoor advertising, 247N, 959R

Highways/Engineering

Joint use agreement, 396N, 1135R

Professional Engineers and Land Surveyors, Board of Registration for

Continuing professional development, 859N
Individual/corporation certification, 859N
Registration certificate, 859N
Seal/stamp, 1207L

Sabine River Compact Administration

Spring meeting, 1215P

Secretary, Office of the

Mississippi River Bridge, 406P, 960R

Weights and Measures, Office of

Reflective material, 709R
Vehicle load shifting, 876N

TREASURY

Bond Commission

Movables, 1450N
Deferred Compensation Commission
Comprehensive revisions, 1452N
Housing Finance Agency
HOME Affordable Rental Housing, 1203N
State Employees Group Benefits Program, Board of Trustees of the
Cancer, 1079ER
Catastrophic illness, 424ER, 496R
Impotency, 1080ER
Medicare retiree, 423ER, 496R
Mental health, 587N, 1137R
Point of Service (PPO) region, 424ER, 496R, 496R
Pre-existing condition, 425ER, 497R
Prescription drug, 426ER, 498R
Sleep disorder, 499R
Special enrollment, 425ER
State Employees' Retirement System, Board of Trustees of the
[Note: See also Office of the Governor, Division of Administration]
Disability, 1199N
Terminate, 120R
Teachers' Retirement System, Board of Trustees of the
Cost of Living Adjustment (COLA), 588N, 1138R
Deferred Retirement Option Plan (DROP), 398N, 961R
Rules codification/repromulgation, 499R

WILDLIFE AND FISHERIES

Fisheries, Office of

Carp, 249N, 962R

Management and Finance, Office of

Nonresident hunting/fishing, 505R

Wildlife and Fisheries Commission

Alligator, 1258ER
Bass, 505R
Charter fishing license, 1463N
Commercial fisherman, 619ER, 876N, 1035N, 1259ER
Deer, 620ER, 622ER, 1140R, 1204N, 1260ER, 1325R
Exotic animals, 620ER, 1260ER
Fingerlings, 1462N
Fishing license, 12ER, 15ER, 250N, 359R, 619ER, 709R, 964R
Game hunting, 589N, 1324R
Goose creeping, 1463N
Mullet, 14ER, 359R
Netting, 878N
Red Snapper, 13ER, 908ER
Reef fish, 14ER, 399N, 622ER, 909ER, 1138R, 1139R, 1206N
Shrimp, 16ER, 621ER, 909ER, 1261ER
Spotted Seatrout, 16ER, 360R
Trapping, 622ER