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# Executive Orders

## ADDENDUM TO EXECUTIVE ORDER EWE-79-4 ISSUED MAY 3, 1979

BY VIRTUE of the power vested in me and acting under the authority of Article 4, Section 5(A) and(J) of the Louisiana Constitution of 1974 and the Louisiana Disaster Act of 1974, I, EDWIN EDWARDS, do hereby extend the effect of Executive Order EWE-79-4 for an indefinite period not to exceed thirty days from this date.

IN WITNESS WHEREOF, I have hereunto 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 the 3rd day of July, A.D. 1979.

Edwin Edwards  
Governor of Louisiana

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Health and Human Resources Office of Family Security

In accordance with the provisions of R.S. 40:29, the Department of Health and Human Resources, Office of Family Security, has adopted the Voluntary Quit Provisions in accordance with federal regulations as specified in the *Federal Register*, Volume 44, Number 58, Friday, March 23, 1979, pages 17,982 - 17,985. The Voluntary Quit Provision is stated below:

Voluntary Quit. No applicant household whose primary wage earner voluntarily quit his/her most recent job without good cause shall be eligible to participate as specified below:

1. When the household files an application, the eligibility worker shall determine if any currently unemployed (i.e., employed less than twenty hours per week or receiving less than weekly earnings equivalent to the federal minimum wage multiplied by twenty hours) household member who is required to register for full-time work has quit his/her most recent job (i.e., employment involving twenty hours or more per week or having received weekly earnings equivalent to the federal minimum wage multiplied by twenty hours) without good cause within the last sixty days. Changes in employment status that result from reducing hours of employment while working for the same employer, terminating a self-employment enterprise, or resigning from a job at the demand of the employer will not be considered as a voluntary quit.

2. If a determination of voluntary quit is established, the eligibility worker shall then determine if that member is the household's primary wage earner. The primary wage earner shall be the household member, age eighteen or over, who was acquiring the greatest amount of earned financial support for the household at the time of the quit. The primary wage earner is

determined by comparing the projected earnings of the member who quit employment in the month the voluntary quit occurred as if he/she had not ceased employment against the actual or, if not available, the projected earnings of the remaining household members.

3. Upon determination that the primary wage earner voluntarily quit employment, the eligibility worker shall determine if the voluntary quit was with good cause. If the voluntary quit was not for good cause, the household's application for participation shall be denied for a period of two months beginning with the month of the quit. The household shall be advised of the reason for the denial and of its right to reapply and/or request a fair hearing.

4. If an application for participation is filed in the second month of disqualification, the eligibility worker shall use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month(s) if all other eligibility criteria are met. Exemptions from Voluntary Quit. The following persons are exempt from voluntary quit provisions:

1. Primary wage earners in households certified for food stamps at the time of the quit.

2. Person exempt from full-time work registration provisions. Good Cause. Good cause for leaving employment shall include:

1. Discrimination by an employer based on age, sex, color, handicap, religious beliefs, national origin or political beliefs.

2. Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule.

3. Acceptance by the primary wage earner of other employment, or enrollment of at least half-time in any recognized school, training program, or institution of higher education that requires the primary wage earner to leave present employment.

4. Acceptance by any household member of employment or enrollment of at least half-time in any recognized school, training program or institution in another parish which requires the household to move and thereby requires the primary wage earner to leave employment.

5. Resignations by persons under the age of 60 which are recognized by the employer as retirement.

6. Employment which becomes unsuitable by not meeting the criteria after the acceptance of employment.

7. Acceptance of a bona fide offer of employment of more than twenty hours a week or in which the weekly earnings are equivalent to the federal minimum wage multiplied by twenty hours which, because of circumstances beyond the control of the primary wage earner, subsequently either does not materialize or results in employment of less than twenty hours a week or weekly earnings of less than the federal minimum multiplied by twenty hours.

8. Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another such as migrant farm labor or construction work. There may be some circumstances where households will apply for food stamp benefits between jobs, particularly in cases where work may not yet be available at the new job site. Even though employment at the new site has not actually begun, the quitting of the previous employment shall be considered as with good cause if part of the pattern of that type of employment.

Verification. The eligibility worker shall request verification of the household's statement to the extent that the information given by the household is questionable. The primary responsibility for providing verification rests with the household. If it is difficult or impossible for the household to obtain documentary evidence in a timely manner, the eligibility worker shall offer assistance to the household to obtain the needed verification.

Acceptable sources of verification include but are not limited to the previous employer, employee associations, union representatives and grievance committees or organizations. Whenever documentary evidence cannot be obtained, a collateral contact shall be substituted. The eligibility worker is responsible for obtaining verification from acceptable collateral contacts provided by the household.

If the household and the eligibility worker are unable to obtain requested verification from these or other sources because the cause of the quit resulted from circumstances that for good reason cannot be verified, such as a resignation from employment due to discrimination practices or unreasonable demands by an employer or because the employer cannot be located, the household will not be denied access to the Food Stamp Program.

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

### DECLARATION OF EMERGENCY

#### Department of Health and Human Resources Office of Family Security

In accordance with the provisions of R.S. 40:29 the Department of Health and Human Resources, Office of Family Security has adopted, effective June 28, 1979, maximum allowable costs (MAC) for the following drugs when dispensed on prescriptions.

|                                  |                      |
|----------------------------------|----------------------|
| Amoxicillin 250 mg. caps         | \$0.2108 per capsule |
| Amoxicillin 500 mg. caps         | 0.3942 per capsule   |
| Hydrochlorothiazide 25 mg.tabs.  | 0.0250 per tablet    |
| Hydrochlorothiazide 50 mg. tabs. | 0.0306 per tablet    |

In no case may a recipient be required to provide payment for any differences in a prescription price that may occur with the implementation of MAC, nor may our office use a cost which exceeds the established maximums except as follows.

The Department of Health, Education and Welfare's regulations provide that when a physician certifies that a specific brand is medically necessary for a particular patient, then the MAC limitations for that medication will not apply. In this case their specific guidelines provide that:

1. The certification must be in the physician's handwriting;
2. The certification may be written directly on the prescription, or on a separate sheet which is attached to the prescription;
3. A standard phrase written on the prescription, such as "brand necessary" will be acceptable;
4. A printed box on the prescription blank that could be checked by the physician to indicate brand necessity is unacceptable;
5. A handwritten statement transferred to a rubber stamp and then stamped on the prescription blank is unacceptable.

This action has been taken in order to comply with federal regulations which were published in the *Federal Register*, Volume 44, Number 94, page 28,104, Monday, May 14, 1979.

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

### DECLARATION OF EMERGENCY

#### Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, has adopted the increases to the maximum allow-

able income standards, an increase in the standard deduction to seventy dollars, an increase in the shelter deduction or in combination with the dependent care deduction not to exceed ninety dollars, and increases in the Thrifty Food Plan amounts, in accordance with federal regulations promulgated in the *Federal Register*, Volume 44, Number 93, Friday, May 11, 1979, pages 27,641 through 27,643.

Due to the length of the material, the Department of the State Register has exercised its option under R.S. 49:954.1C to omit publication in the *Louisiana Register*. Copies of this material may be secured from the Office of Family Security, Planning and Policy Formulation Section, Box 44065, Baton Rouge, Louisiana 70804.

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

### DECLARATION OF EMERGENCY

#### Department of Health and Human Resources Office of Family Security

In accordance with the provisions of R.S. 40:29, the Department of Health and Human Resources, Office of Family Security, has increased, effective July 1, 1979, the maximum level (cap rate) for long term care eligibility for an individual to \$624.60, and for a couple occupying the same room in a long term care facility the double cap rate of \$1,249.20

This increase will allow the Medical Assistance Program to be in compliance with federal regulation 42 CFR 435.230 and 435.1011 which sets the cap rate at three hundred percent of the Supplemental Security Income payment amount. Effective July 1, 1979 the Social Security Administration increased this amount to \$208.20

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

## Rules

### RULES

#### Department of Agriculture Office of Agricultural and Environmental Sciences

##### Rules and Regulations for Recertification of Pesticide Applicators for the Enforcement of The Louisiana Pesticide Control Act

1. The Federal Insecticide, Fungicide, and Rodenticide Act requires that persons who apply restricted-use pesticides after October 21, 1977, be certified. The initial certification period is three years beginning October 21, 1977. The State Plan for the Certification of Pesticide Applicators requires recertification of pest management consultants and commercial applicators every three years and private applicators whenever the Pesticide Advisory Commission determines that changing technology deems it to be necessary.

2. A commercial applicator or a pest management consultant who desires recertification may meet this requirement by two methods. He may be retested if he so desires or he may attend a subject matter meeting. The agenda at such meeting must prove acceptable to the certifying agency as adequate training for recertification. The applicant will submit to the certifying agency an

application on which will be listed those subject matter meetings he attended. This will qualify him for recertification in the appropriate category(ies). Evidence of his attendance at the listed meetings must accompany the application.

3. Private applicators will become eligible for recertification by attending a subject matter meeting conducted by personnel of the Louisiana Cooperative Extension Service or the Louisiana Department of Education Vocational Agriculture/Agribusiness. The private applicator, when qualified, will make application for recertification on a form supplied by the certifying agency and available from the parish extension office. Verification of his qualification will be attested to by the signature of the county agent or vo-ag instructor on the application. A private applicator may also elect to be recertified by filling out a self-study questionnaire provided by the Louisiana Department of Agriculture and obtained through the county agent's office. The questionnaire will be mailed to the Louisiana Department of Agriculture by the private applicator.

4. Organizations, associations, agencies, chemical companies, or other related groups who so desire may develop training programs designed for training members and other attendees. Programs will be submitted to the certifying agency and the Louisiana Cooperative Extension Service Pesticide Coordinator for subject matter content of the planned training program to determine its suitability for recertification.

5. The certifying agency and the Louisiana Cooperative Extension Service Pesticide Coordinator will accept, on a case by case basis, recertification for those commercial applicators and/or pest management consultants who hold certification in more than one category. It is anticipated that training sessions will be designed to afford the applicator and/or pest management consultant an opportunity for recertification in multiple categories. Such training sessions may be held in the course of, but not limited to, national meetings such as the Entomological Society of America, American Phytopathological Society, Southern Weed Society and others of equal rank. The same procedure as outlined above will be followed by the commercial applicator or pest management consultant with regard to verifying that he has met recertification requirements.

6. The Louisiana Department of Agriculture will accept, on a reciprocal basis, recertification programs in other states and will consider these as having met the requirements for recertification in Louisiana.

7. The organizations listed below under each category represent the major associations or organizations, but do not necessarily exclude other similar groups or agencies from sponsoring or holding training sessions in a particular category or categories.

Categories:

1. Agricultural Pest Control.
  - a. Louisiana Pesticide Applicators' Association.
  - b. Louisiana Aerial Applicators' Conference.
  - c. Pest Management Consultants' Workshop.
  - d. Louisiana Agricultural Consultants' Association.
  - e. Louisiana Agricultural Chemical Association.
2. Forest Pest Control.
  - a. Louisiana Cooperative Extension Service.
  - b. Louisiana Chapter of American Foresters' Association.
3. Ornamental and Turf Pest Control.
  - a. Louisiana Turf Grass Association.
  - b. Louisiana Association of Nurserymen.
4. Seed Treatment.
  - a. Louisiana Seedsmen's Association.
5. Aquatic Pest Control.
  - a. Louisiana Pesticide Applicators' Association.
  - b. Louisiana Aerial Applicators' Conference.
6. Right-of-way Pest Control.
  - a. Louisiana Pesticide Applicators' Association.
  - b. Louisiana Aerial Applicators' Conference.

7. Industrial, Institutional, Structural, and Health Related Pest Control.

- a. Louisiana Cooperative Extension Service.
8. Public Health Pest Control.
  - a. Louisiana Mosquito Control Association.
  - b. Office of Health Services and Environmental Quality.
  - c. United States Department of Agriculture.
9. Regulatory Pest Control, Demonstration and Research Pest Control, and Pest Management Consultants.
  - a. Louisiana Entomological Society.
  - b. Entomological Society of America.
  - c. Southeast Branch, Entomological Society of America.
  - d. Louisiana Agricultural Consultants' Association.
  - e. Pest Management Consultants' Workshop.
  - f. American Phytopathological Society.
  - g. Southern Division of American Phytopathological Society.
  - h. Louisiana Association of Plant Pathologists and Nematologists.
  - i. Weed Science Society of America.
  - j. Southern Weed Society.
  - k. Louisiana Agricultural Chemicals Association.

E. A. Cancienne, Director  
Pesticide Commission

## RULES

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

#### Lespedeza Seed Certification Standards

- I. Application and Amplification of General Standards.
  - A. The General Seed Certification Standards as adopted by the Louisiana Seed Commission are basic and together with the following specific standards constitute the standards for certification of lespedeza seed.
    - B. The General Standards are amplified as follows to apply specifically to lespedeza seed. Eligibility requirements: a field is eligible for certification if grown from foundation or registered seed stock approved by the Louisiana Seed Commission.
  - II. Number of Varieties.
    - A. Only one variety shall be grown per farm.
    - B. All of one variety produced on a farm must be inspected for certification.
  - III. Land Requirements.
    - A. A variety will not be eligible for certification if planted on land where lespedeza other than a crop eligible for certification and of the same variety has had opportunity to mature seed during the previous five years.
      - B. A land inspection will be made before the ground is prepared for seeding.
  - IV. Field Inspection.
    - A. Seed fields will be inspected by a representative of the Louisiana Department of Agriculture when the crop is approaching maturity.
      - B. A crop automatically becomes ineligible for certification if harvested before field inspection is made.
  - V. Field Standards.
    - A. General
      1. Unit of Certification: A field or portion of a field may be certified. If a field is to be divided for the purposes of certification it shall be separated by a strip at least five feet wide mowed before the time of field inspection.

2. Isolation: All fields for certification shall be separated from other fields by a definite boundary of ten feet free of lespedeza.

3. Management: Poor stands, lack of vigor, evidence of poor cultural care or other conditions that would bring certified seed into disfavor shall be cause for rejection.

B. Specific Requirements.

| Factor                       | Maximum Permitted in each Class |            |           |
|------------------------------|---------------------------------|------------|-----------|
|                              | Foundation                      | Registered | Certified |
| Other Varieties              | 1:1000                          | 1:400      | 1:100     |
| Other Crops<br>(inseparable) | 1:500                           | 1:200      | 1:100     |
| Noxious Weeds                | none                            | none       | none      |

| Factor                                  | Maximum Permitted in each Class |            |           |
|---|---------------------------------|------------|-----------|
|   | Foundation                      | Registered | Certified |
| Pure Seed (Minimum)                     | 98.0%                           | 98.0%      | 98.0%     |
| Other Varieties<br>(Maximum)            | 0.1%                            | 0.25%      | 1.0%      |
| Other Crops (Maximum)                   | 0.1%                            | 0.25%      | 0.5%      |
| Inert Matter (Maximum)                  | 2.0%                            | 2.0%       | 2.0%      |
| Weed Seeds (Maximum)                    | 0.5%                            | 1.0%       | 1.0%      |
| Noxious Weeds                           | none                            | none       | none      |
| *Total Objectionable<br>Weeds (minimum) | 0.05%                           | 0.1%       | 0.15%     |
| Germination                             | 80.0%                           | 80.0%      | 80.0%     |
| Total Other Crop Seeds<br>(Maximum)     | 0.2%                            | 0.5%       | 1.5%      |

\*Objectionable weeds; the seed of which is difficult to separate by mechanical means, not to exceed good farming practices.

**\*Objectionable Weeds**

|                         |                      |
|-------------------------|----------------------|
| Digitaria spp           | (Crabgrass)          |
| Ambrosia artimisiifolia | (Ragweed)            |
| Polygonum spp           |                      |
| Paspalum spp            |                      |
| Chenopodium spp         | (Goosefoot, Pigweed) |
| Solanum spp             |                      |
| Daucus carota           | (Wild Carrot)        |
| Setaria spp             | (Foxtail)            |

VII. Penalties. Breeder, foundation, registered and/or certified lespedeza seed that has been shipped into Louisiana and is mislabeled or misbranded, or does not meet the requirements of this regulation, shall be confiscated as breeder, foundation, registered and/or certified lespedeza seed, or shipped out of Louisiana, at the option of the owner or shipper; and any person, firm or corporation found guilty of violating the provisions of this regulation shall be subject to the penalties provided for by Part 1 of Chapter 11 of Title 3 of the Louisiana Revised Statutes of 1950.

VIII. The above regulation may be revised or amended at any time that conditions warrant.

IX. The above regulation shall be effective on and after July 20, 1979.

Richard Carlton, Secretary  
Seed Commission

**RULES**

**Governor's Special Commission on Education Services**

**State Student Incentive Grant Program**

Rule 2.a: Students are expected to be in good standing academically for a State Student Incentive Grant (SSIG). High school graduates are required to have at least "C" average grades (2.0 on a 4.0 system) in the high school academic subjects of

English, mathematics, social studies, and the sciences, or an ACT composite score of at least 18.

\* \* \* \*

Rule 2.f: The student aid officer (SAO) shall certify that the student meets one of the academic requirements stated above. A copy of the student's transcript or academic record will not be required.

\* \* \* \*

Rule 3.e: The commission will return approved copy of certification form together with SSIG check for each semester or quarter to the SAO at the school for distribution.

\* \* \* \*

Rule 3.f: If student is not present at school, SSIG award check should be returned to the Commission with certification of another eligible student.

\* \* \* \*

Rule 5.e: Funds will be interchangeable between the continuing and initial fund allocations at discretion of the SAO except that priority must be given to continuing students as required by federal regulations.

\* \* \* \*

Rule 6.a: The amount of SSIG for any academic year shall not be more than seven hundred dollars, nor less than two hundred dollars. If the student does not qualify for at least two hundred dollars annually, the student is ineligible for any SSIG.

\* \* \* \*

Rule 8.a(3): In connection with the use of the income tax method for dependent students, the expected family contribution calculated according to this system is an amount equal to the amount of income tax paid by the parents of such dependent student, plus five percent of such parents' net assets in excess of \$12,500, or \$25,000 if such assets include farm or business assets, plus any amount the student is reasonably able to contribute.

\* \* \* \*

Rule 8.c: If the student is entitled to a Basic Educational Opportunity Grant (BEOG), the SAO must consider the amount available to this student under BEOG as a resource, whether applied for or not.

\* \* \* \*

Rule 10.b: A student who has not received and will not receive financial assistance of more than seven hundred fifty dollars from the parent(s) in the calendar year in which aid is received and the calendar year prior to the academic year for which aid is requested.

\* \* \* \*

Rule 10.c: A student who has not lived or will not live for more than six weeks in the home of a parent during the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested.

\* \* \* \*

Rule 11: Substantial financial need shall be defined as the difference between a student's cost of education and the sum of (1) that student's expected family contribution plus (2) other student aid the student is due to receive. The difference thus computed must exceed ninety dollars.

**State Guaranteed Student Loan Program**

Rule 2.a: Students are expected to be in good standing academically to be eligible for a student loan. High school graduates are required to have at least "C" average grades for four years in the academic subjects of English, mathematics, social studies, and the sciences; or an ACT composite score of at least 18.

Richard W. Petrie, Director, Loan/Grant Division  
Governor's Special Commission on Education Services

## RULE

### Board of Elementary and Secondary Education

*Editors Note: The Department of the State Register will not publish the texts of Rule 6.01.13, Rule 3.05.01, and Rule 3.01.03, described below, in accordance with R.S. 49:954.1C. Copies of any of these plans and programs may be obtained from the Board of Elementary and Secondary Education, Box 44064, Baton Rouge, Louisiana 70804.*

#### Rule 4.02.04

The Board adopted a policy directing that parishes provide an individual education plan both to the impartial hearing officer and to the Board for all appeal cases submitted to the Board under P.L. 94-142 and Act 754 of 1977.

#### Rule 6.01.13

The Board adopted Local Education Agency Personnel Evaluation Programs as submitted by the Department of Education.

#### Rule 3.05.01

(Replaces policy presently in effect.) The Board approved for adoption the Migrant Education State Plan for Fiscal Year 1980.

#### Rule 4.01.60

The Board approved for final adoption Regulations to Standards for State Approved Elementary Summer Schools.

#### Standards for State Approved Elementary Summer Schools

The following regulations govern the operation of approved summer programs in elementary schools.

##### Purpose.

1. To enable students who have failed in subjects to remove deficiencies and be considered for promotion to the next grade.
2. To enable students to become stronger in subjects where a need has been recognized.
3. To enable students to participate in offerings that are not provided in the regular curriculum during the school year.

##### Administration.

1. A summer school shall be organized and operated under the administrative and supervisory control of the chief administrative officer of the school system.
2. Summer school shall be conducted in an approved school building.
3. The Local Education Agency (LEA) will set up policies that will control requirements for satisfying successful completion of subjects offered.
4. Summer schools shall be operated under the direct supervision and administration of the LEA. However, summer schools having seven or more teachers shall have a certified principal.

##### Application.

1. The LEA shall apply to the State Department of Education for approval of each summer school program.
2. An application for approval of each summer school's offering shall be filed no later than the end of the first week after the summer session begins.
3. The application forms, provided by the State Department of Education, shall be submitted to the director of the Bureau of Elementary Education.
4. The application shall carry the approval of the chief administrative officer of the school system, and the principal of the summer school, if applicable.
5. In order for summer schools to be accepted, an on-site evaluation shall be made by personnel from the State Department of Education to verify information submitted on the report and to evaluate the quality of the instructional program.

Faculty.

1. Certification of the faculty shall be equal to that required during the regular session for subjects offered for removal of deficiencies.

2. The teaching load shall not exceed twenty students per class.

3. A teacher shall not teach for more than four clock hours daily.

##### Instruction.

1. A teacher will be allowed to teach only one subject for removal of deficiencies or remediation during a single time period.

2. A student attending summer school for promotional purposes cannot enroll for more than two subjects.

3. The library or library books as well as all regular teaching aids and equipment shall be available for summer school use.

4. Textbooks, supplementary materials and supplies adequate for effective instruction shall be provided.

a. Textbooks used during the summer school shall be chosen from the state approved list.

b. No fee shall be charged for textbooks used during summer school.

##### Attendance.

1. The minimum attendance for an elementary student to receive credit or pass a subject shall be sixty hours for one subject.

2. Students attending summer school for promotional purposes must have written consent by the principal of the last school he attended.

3. The LEA may impose a more strict minimum attendance policy.

##### Time Requirements.

1. A summer school term shall be operated for a minimum period of thirty-five days (five days per week for seven weeks).

2. Daily time requirements as follows:

| Program                 | 35 Days              | Total Hours |
|-------------------------|----------------------|-------------|
| Removal of Deficiencies | 120 min. per subject | 70          |
| Remedial/Enrichment     | 90 min. per subject  | 52          |

Deviations. Deviations from the above time allotments and/or policies must be approved by the State Department of Education.

#### Rule 9.00.50a

The Board adopted Rules for Bus Riders, to be added to Bulletin 1191, *School Transportation Handbook*.

#### Rules for Bus Riders

##### Do

1. Cooperate with the driver—your safety depends on it!
2. Be on time—the bus will not wait.
3. Cross the road cautiously when waiting for and leaving the bus.
4. Follow driver's instructions when loading and unloading.
5. Remain quiet enough not to distract the driver.
6. Have written permission and be authorized by the principal to get off at a stop other than your own.
7. Be courteous, be safety-conscious, protect your riding privilege—enjoy your ride.

##### Do Not

1. Stand when a seat is available and bus is in motion.
2. Extend arms, head, or objects out of windows or doors.
3. Throw objects in the bus nor out windows or doors.
4. Use the emergency door except for emergencies.
5. Eat or drink on the bus.

6. Damage the bus in any way.

7. Use the following items on the bus: tobacco, matches, cigarette lighters, obscene material.

The following items are not allowed on the bus: alcohol, drugs; pets (cats, dogs, etc.); glass objects (except eye-glasses); weapons (including knives); objects too large to held in your lap or placed under your seat.

#### **Rule 3.01.03**

The Board adopted 1979-80 State Plan for Coordination of Technical Assistance to Bilingual Education Programs.

#### **Rule 3.03.10d**

The Board approved for final adoption a policy increasing the maximum number of hours of evening extension classes that a full-time instructor of preparatory classes is permitted to teach from nine to twelve hours.

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

### **RULES**

#### **Board of Supervisors of Louisiana State University**

The first paragraph of Article III, Section 1 of the Bylaws shall read as follows:

Section 1. Chairman and Vice-Chairman. At the first regular meeting of the Board in the third quarter of each calendar year, the Chairman-elect shall automatically become Chairman of the Board and the Board shall elect a Vice-Chairman, who shall be Chairman-elect. They shall serve for a term of one year. Should a vacancy occur in the Vice-Chairmanship, the Board shall elect such other officers as it may deem necessary.

\* \* \* \*

The following two sections of Chapter IV the *University Regulations* have been amended to read as follows:

Section 4-3. Retirement Plans. All nonstudent regular employees of the University System will be members of one of the following retirement plans, unless ineligible by provisions of the retirement system.

A. LSU Retirement System. The LSU Retirement System as provided by R.S. 17:1611, et seq. was abolished effective January 1, 1979, by the provisions of Act 643 of the 1978 Louisiana Legislature. Members of the LSU Retirement System on December 31, 1978, continuing in employment, were required under the provisions of Act 643 of 1978 to become members of either the Teachers' Retirement System of Louisiana or the Louisiana State Employees' Retirement System.

B. LSU Retirement Plan. Employees who were members of this plan on December 31, 1978, except certain employees referred to in D. below, were required to become members of either the Teachers' Retirement System of Louisiana or the Louisiana State Employees' Retirement System effective January 1, 1979. Provisions for benefits from this plan are contained in "LSU Retirement Plan" authorized by the Board.

C. Teachers' Retirement System of Louisiana and the Louisiana State Employees' Retirement System. Persons becoming employed by any unit of the LSU System on or after January 1, 1979, shall as a condition of employment, if eligible, become a member of either the Teachers' Retirement System of Louisiana or the Louisiana State Employees' Retirement System.

D. United States Civil Service Retirement System. Personnel of the Cooperative Extension Service who are required to become members of the United States Civil Service Retirement

System shall be members of that system. Such personnel whose date of employment was prior to December 15, 1950, (and who were employees of the Cooperative Extension Service on that date) shall also be members of the LSU Retirement Plan, notwithstanding their membership in the United States Civil Service Retirement System. Such personnel whose date of employment was subsequent to December 14, 1950, may be entitled to supplemental benefits from the Teachers' Retirement System of Louisiana in accordance with the provisions of that system. Section 4-4. Conditions of Retirement.

A. Eligibility for retirement will be in accordance with the provisions of the respective retirement systems.

B. Retirement of all employees except law enforcement personnel shall be compulsory at attained age of seventy years, provided, however, that extension may be granted to the end of the academic session or fiscal year, as appropriate, during which age seventy was attained. Retirement of law enforcement personnel shall be compulsory at the attained age of sixty-five years unless specific extension of employment is granted under appropriate state law and System policy; and any such extension will be given only when it is to the advantage of University System, and shall be on a year-to-year basis which in no instance shall extend beyond the end of the fiscal year during which age seventy was attained (Reference Act 160 of 1978).

Camille R. Aertker, Assistant Administrative Secretary  
Board of Supervisors of Louisiana State University

### **RULES**

#### **Board of Regents**

#### **Section II. Finance Capital Projects**

3.4 (Rev.) All changes to any institution or system's physical facilities that add to, improve, change the utilization of, or that remove from use such facilities, will first be submitted to this Board for review, comment and approval prior to beginning any such project; provided, however, that exception(s) will be made for certified emergency projects of a nonrecurring nature requiring immediate attention. Any such emergency project certified to by the appropriate management board's chief administrative officer may be approved by the Commissioner of Higher Education if concurred in by the Chairman of the Board and the Chairman of the Finance Committee. Any such action(s) taken will be reported to the full Board at its next meeting. Funding limits for emergency projects of this type are as established by state statute. Minor repairs and minor construction costing less than fifty thousand dollars will not be subject to individual approval by the Board of Regents provided adequate funds are available, all existing emergencies are being satisfied, and these projects are approved by the appropriate management board.

#### **Professional Qualifications of Institutional Master Planners**

Policy 3.12.

A. Definition. A physical plant master plan for an institution of higher education may be defined as an integrated series of documents which present in graphic, narrative, and tabular form the present layout of a campus and its utility systems and a plan for their orderly and comprehensive development in an efficient and economical manner over a five- to ten-year period.

B. Phases of Master Planning.

1. Phase I is principally an accounting and evaluation of existing facilities, including a land inventory, mapping of utility

lines and a space inventory as outlined in the Board of Regents Facilities Manual.

2. Phase II is an analysis and plotting of future requirements, relating them to an institution's role and scope. This phase should show proposed new buildings and land acquisitions, buildings scheduled for conversion and buildings scheduled for demolition.

3. Phase III consists of continual updating of Phase I in keeping with completed Phase II requirements.

#### C. Selection of Professionals for Facilities Master Planning.

1. Each person recommended by a higher education institution to be retained to develop a facilities master plan shall be selected from properly licensed architects, engineers, landscape architects, or other qualified professionals.

2. The following criteria among other factors that may be deemed appropriate, shall be used by higher education institutions in recommending professionals to the appropriate selection board:

a. Past and current professional accomplishments in the field of higher education facilities master plans in accordance with the characteristics of such plans as listed in Part A and B above.

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

William Arceneaux  
Commissioner of Higher Education

## RULES

### Department of Health and Human Resources Air Control Commission

The Air Control Commission Regulations were revised on June 26, 1979, at a public hearing in New Orleans, in order to incorporate the permit fee system into the permit regulation and to make some minor revisions to the hydrocarbon emission regulation.

The Legislature has authorized the Louisiana Air Control Commission to charge permit fees in order to recover the reasonable cost of operating the permit system for new source review. The cost of the permit system is approximately \$350,000 per year. The State of Oregon's permit fee system was used as a model. It uses Standard Classification Codes to determine the permit fees.

The Department has determined that the following regulation changes are needed to implement the permit fee system:

(1) Regulation 6.1 is revised to refer to Table 8 (The fee schedule).

(2) Regulation 6.1.6. is added to describe the method used to issue permits to facilities with more than one process.

(3) Regulation 6.1.7 describes how the permit fees will be accessed.

Each new or modified facility will be required to remit the required permit fees prior to permit approval. Only the filing fee is not refundable. A permit request for more than one industrial process for a facility will be charged on the basis of the sum of the fees for each process. For example, the permit fee for a new refinery would be \$1,525. The permit fee for a new redimix concrete plant would be \$100.00. The fees are for individual processes rather than facilities, permits issued, or individual sources of emissions.

If a new facility has several different processes then its fee would be the sum of the individual fees for each process. Example: If a facility has a sulphuric acid plant, a phosphoric acid plant and a fertilizer production unit, then the fee would be as follows:

2819 sulfuric acid, \$275.00

2874 phosphatic fertilizer, \$275.00

2819 industrial inorganic and organic chemicals manufacture; not elsewhere classified, \$275.00

Total: \$825.00

Existing major industries will be required to pay an annual compliance determination fee. This fee is required to cover the cost of determining if a facility is operating in compliance with Louisiana Air Control Commission Regulations. Minor sources will pay the compliance determination fee only a maximum of once per year and only when they have been inspected. New sources will have to pay the fee when the new process comes on line. The compliance determination fee is listed in Table 8. The annual compliance fee will be based on the sum of the fees for each different process listed in Table 8 for facilities with two or more different processes.

Using 1977 data, approximately \$331,640 would have been collected using the proposed fee schedule (total of all fees). The fees will be adjusted yearly to insure adequate funds are collected to cover the reasonable expenses involved.

#### Revisions to Air Control Commission Regulations

Revise text in Section 6.1 to read:

6.1 ...Said report shall be prepared in accordance with the general rules, which follow, for submission of industrial waste reports, and no construction or modification or operation of a facility which ultimately may result in emission of air contaminants as defined in Section 4.4 shall be started until the report has been approved, an appropriate permit fee paid (as listed in Table 8) and a certificate of approval (permit) for the work has been received from the Louisiana Air Control Commission....

\* \* \* \*

Add the following Subsections to Section 6.0 to read as follows:

6.1.6 Multiple process permits.

When a single site includes more than one process, a single permit may be issued to include all processes at the site. For uniformity, such applications shall separately identify each process.

When a single industrial process (included in a multi-source permit) is subject to permit modification, revocation, suspension, or denial, such action by the Louisiana Air Control Commission or Technical Secretary shall only affect that individual source without affecting other processes subject to the permit.

6.1.7 Permit Fees

(1) All persons required to obtain a new permit shall be subject to a two part fee consisting of a uniform nonrefundable filing fee of twenty-five dollars and an application processing fee, listed in Table 8. The amount equal to the filing fee and application processing fee, shall be submitted as a required part of any application for a new permit. The amount indicated in Table 8 for a modified permit fee shall also be submitted with any application for modification of a permit. The annual compliance determination fee for a new source will be paid prior to the time the processes specified in the permit come on line.

(2) The Standard Industrial Classification (SIC) codes listed in Table 8 shall be used to assess fees.

(3) In the event there is a minor modification to an existing permit which does not require Commission action or Technical Secretary approval no fee shall be collected.

(4) Applications for multiple process permits shall be subject to a single twenty-five dollar filing fee. The application processing fee for multiple-source permits shall be equal to the total amounts required by the individual processes involved, as listed in Table 8.

(5) The annual compliance determination fee for major sources shall be paid by the end of January of each year. Failure to timely remit the annual compliance determination fee in accordance with the above shall be considered grounds for

revoking an existing permit. Minor sources may or may not receive an annual compliance determination inspection. Consequently, minor sources will be notified of any compliance determination fee (based on Table 8 permit fee schedule) upon completion of an annual inspection and evaluation. In this case the compliance determination fee must be paid within thirty days of the notification by the agency. Only one such fee shall be charged annually.

(6) When the agency accepts an application for review, the filing fee shall become nonrefundable.

(7) If a temporary or conditional permit is issued in accordance with adopted procedures, fees submitted with that application for permit shall be retained and be applicable to the regular permit when it is acted upon.

(8) All remittances shall be made payable to the State of Louisiana Department of Health and Human Resources.

(9) If a process is not listed in Table 8, and is not a source type exempted from fees by this regulation, then the Department shall assign a fee based on the most similar processes in Table 8

or add this process to the exempt list as applicable. The Department shall analyze each permit request to determine the number of processes involved and the permit fees associated with each.

(10) In September of each year, the Department shall reevaluate the permit fee schedule based upon the previous fiscal year's reasonable costs and shall adjust fees in Table 8 so as to recover the reasonable costs involved in the operation of the permit system and submit such revised schedule to the Commission for approval action.

(11) A permit fee exempt list shall be presented to the Commission annually for approval. The permit fee exempt list shall be in the offices of the Commission staff and shall be available for public inspection. Any person may request permit fee exemption for a source class by application to the Technical Secretary. Sources listed in the permit fee exempt list shall be exempt from the permit fee (Table 8) and from having to obtain a permit. The Technical Secretary may grant initial approval or denial of the class exemption pending consideration by the Commission.

TABLE 8-LOUISIANA PERMIT FEE SCHEDULE

|    | AIR CONTAMINANT SOURCE  | SICC | FILING FEE | PRO-CESSEING FEE | ANNUAL COMPLIANCE DETERMINATION | NEW APPLI-CATION | MODI-FIED PERMIT FEE |
|----|---|------|------------|------------------|---------------------------------|------------------|----------------------|
| 1  | COTTON GIN  | 724  | 25         | 50               | 20                              | 75               | 40                   |
| 2  | BITUMINOUS COAL AND LIGHTITE MINING                               | 1211 | 25         | 150              | 60                              | 175              | 90                   |
| 3  | CRUDE AND NATURAL GAS PRODUCTION                                  | 1311 | 25         | 100              | 40                              | 125              | 70                   |
| 4  | NATURAL GAS LIQUIDS   | 1321 | 25         | 105              | 70                              | 130              | 70                   |
| 5  | CONSTRUCTION SAND AND GRAVEL                                      | 1442 | 25         | 50               | 20                              | 75               | 40                   |
| 6  | INDUSTRIAL SAND   | 1446 | 25         | 50               | 20                              | 75               | 40                   |
| 7  | SULFUR MINING   | 1477 | 25         | 175              | 80                              | 200              | 110                  |
| 8  | RICE MILLING  | 2044 | 25         | 50               | 20                              | 75               | 40                   |
| 9  | ANIMAL FEED PREPARATION   | 2048 | 25         | 100              | 40                              | 125              | 70                   |
| 10 | CANE SUGAR, EXCEP REFINING ONLY                                   | 2061 | 25         | 200              | 80                              | 225              | 120                  |
| 11 | CANE SUGAR REFINING   | 2062 | 25         | 250              | 70                              | 275              | 140                  |
| 12 | COTTONSEED OIL MILLS  | 2074 | 25         | 50               | 20                              | 75               | 40                   |
| 13 | SOYBEAN OIL MILLS   | 2075 | 25         | 150              | 70                              | 175              | 90                   |
| 14 | ANIMAL & MARINE FATS AND OIL (RENDERING) 10000 OR MORE TPY        | 2077 | 25         | 250              | 100                             | 275              | 140                  |
| 15 | ANIMAL & MARINE FATS AND OIL (RENDERING) LESS THAN 10000 TPY      | 2077 | 25         | 50               | 30                              | 75               | 40                   |
| 16 | SHORTENING, TABLE OILS, MARGERINE AND- OTHER EDIBLE FATS AND OILS | 2079 | 25         | 150              | 40                              | 175              | 90                   |
| 17 | MALT BEVERAGES  | 2082 | 25         | 150              | 40                              | 175              | 90                   |
| 18 | COFFEE ROASTING   | 2095 | 25         | 150              | 40                              | 175              | 90                   |
| 19 | SAWMILL AND/OR PLANING<br>a) 25000 OR MORE Bd.Ft/Shift            | 2421 | 25         | 100              | 60                              | 125              | 70                   |
| 20 | SAWMILL AND/OR PLANING<br>b) LESS THAN 25000 Bd.Ft/Shift          | 2421 | 25         | 50               | 40                              | 75               | 40                   |
| 21 | HARDWOOD MILLS  | 2426 | 25         | 50               | 40                              | 75               | 40                   |
| 22 | SPECIAL PRODUCT SAWMILLS, N.E.C.                                  | 2429 | 25         | 50               | 40                              | 75               | 40                   |
| 23 | MILLWORK WITH 10 EMPLOYEES OR MORE                                | 2431 | 25         | 50               | 40                              | 75               | 40                   |

TABLE 8-LOUISIANA PERMIT FEE SCHEDULE

| AIR CONTAMINANT SOURCE |  | SICC | FILING FEE | PRO-CESSING FEE | ANNUAL COMPLIANCE DETERMINATION | NEW APPLI-CATION | MODI-FIED PERMIT FEE |
|------------------------|--|------|------------|-----------------|---------------------------------|------------------|----------------------|
| 24                     | HARDWOOD VENEER AND PLYWOOD  | 2435 | 25         | 100             | 60                              | 125              | 70                   |
| 25                     | SOFTWOOD VENEER AND PLYWOOD  | 2436 | 25         | 100             | 60                              | 125              | 70                   |
| 26                     | WOOD PRESERVING  | 2491 | 25         | 50              | 20                              | 75               | 40                   |
| 27                     | PARTICLEBOARD MANUFACTURING  | 2492 | 25         | 500             | 190                             | 525              | 270                  |
| 28                     | HARDBOARD MANUFACTURING  | 2499 | 25         | 500             | 120                             | 525              | 270                  |
| 29                     | FURNITURE AND FIXTURE  | 2511 | 25         | 150             | 100                             | 175              | 90                   |
| 30                     | a) 100 OR MORE EMPLOYEES<br>FURNITURE AND FIXTURE b) LESS THAN<br>100 BUT MORE THAN 10 EMPLOYEES | 2511 | 25         | 100             | 60                              | 125              | 70                   |
| 31                     | PULP MILLS   | 2611 | 25         | 1500            | 670                             | 1525             | 770                  |
| 32                     | PAPER MILLS, EXCEPT BUILDING PAPER   | 2621 | 25         | 1500            | 670                             | 1525             | 770                  |
| 33                     | PAPERBOARD MILLS   | 2631 | 25         | 1500            | 670                             | 1525             | 770                  |
| 34                     | ALKALIES AND CHLORINE MANUFACTURING  | 2812 | 25         | 300             | 170                             | 325              | 170                  |
| 35                     | INDUSTRIAL GASES   | 2813 | 25         | 200             | 80                              | 225              | 120                  |
| 36                     | INORGANIC PIGMENTS   | 2816 | 25         | 125             | 60                              | 150              | 80                   |
| 37                     | SULPHURIC ACID MANUFACTURE   | 2819 | 25         | 250             | 140                             | 275              | 140                  |
| 38                     | VINYL CHLORIDE MANUFACTURE   | 2819 | 25         | 500             | 190                             | 525              | 270                  |
| 39                     | INDUSTRIAL INORGANIC AND ORGANIC<br>CHEMICALS MANUFACTURING H.E.C.                               | 2819 | 25         | 250             | 120                             | 275              | 140                  |
| 40                     | CALCIUM CARBIDE MANUFACTURE  | 2819 | 25         | 300             | 190                             | 325              | 170                  |
| 41                     | NITRIC ACID MANUFACTURE  | 2819 | 25         | 250             | 140                             | 275              | 140                  |
| 42                     | SYNTHETIC RESIN MANUFACTURING  | 2821 | 25         | 300             | 140                             | 325              | 170                  |
| 43                     | CHARCOAL AND GUM AND WOOD CHEMICALS  | 2861 | 25         | 200             | 110                             | 225              | 120                  |
| 44                     | ALUMINA MANUFACTURE  | 2873 | 25         | 250             | 110                             | 275              | 140                  |
| 45                     | NITROGENOUS FERTILIZER MANUFACTURE   | 2873 | 25         | 250             | 110                             | 275              | 140                  |
| 46                     | PHOSPHATIC FERTILIZER MANUFACTURE  | 2874 | 25         | 250             | 110                             | 275              | 140                  |
| 47                     | HERBICIDE MANUFACTURING  | 2879 | 25         | 500             | 170                             | 525              | 270                  |
| 48                     | CHEMICALS AND CHEMICAL PREPARATIONS<br>NOT ELSEWHERE LISTED                                      | 2899 | 25         | 250             | 120                             | 275              | 140                  |
| 49                     | PETROLEUM REFINING(MORE THAN 30,000 BPD)   | 2911 | 25         | 1500            | 670                             | 1525             | 770                  |
| 50                     | PETROLEUM REFINING(30,000 BPD OR LESS)   | 2911 | 25         | 750             | 170                             | 775              | 390                  |
| 51                     | ASPHALT BLOWING PLANTS   | 2951 | 25         | 200             | 120                             | 225              | 120                  |
| 52                     | ASPHALTIC CONCRETE PAVING PLANTS<br>a) STATIONARY  | 2951 | 25         | 150             | 70                              | 175              | 90                   |
| 53                     | ASPHALTIC CONCRETE PAVING PLANTS<br>b)PORTABLE   | 2951 | 25         | 100             | 30                              | 125              | 70                   |
| 54                     | ASPHALT FELTS AND COATING  | 2952 | 25         | 200             | 160                             | 225              | 120                  |
| 55                     | BLENDING,COMPOUNDING OR REFINING<br>OF LUBRICATING OILS AND GREASES                              | 2992 | 25         | 175             | 80                              | 200              | 110                  |
| 56                     | CEMENT MANUFACTURING   | 3241 | 25         | 625             | 560                             | 650              | 330                  |
| 57                     | GLASS CONTAINER MANUFACTURING  | 3241 | 25         | 200             | 120                             | 225              | 120                  |
| 58                     | RED MIX CONCRETE   | 3273 | 25         | 75              | 40                              | 100              | 60                   |

TABLE 8-LOUISIANA PERMIT FEE SCHEDULE

|    | AIR<br>CONTAMINANT<br>SOURCE   | SICC | FILING<br>FEE | PRO-<br>CESSING<br>FEE | ANNUAL<br>COMPLIANCE<br>DETERMI-<br>NATION | NEW<br>APPLI-<br>CATION | MODI-<br>FIED<br>PERMIT<br>FEE |
|----|--|------|---------------|------------------------|--|-------------------------|--------------------------------|
| 59 | LINE MANUFACTURING   | 3274 | 25            | 300                    | 140  | 325                     | 170                            |
| 60 | GYPSUM PRODUCTS  | 3275 | 25            | 150                    | 70   | 175                     | 90                             |
| 61 | ROCK CRUSHER   | 3295 | 25            | 175                    | 80   | 200                     | 110                            |
| 62 | a) STATIONARY<br>ROCK CRUSHER  | 3295 | 25            | 175                    | 110  | 200                     | 110                            |
|    | b) PORTABLE  |      |               |                        |  |                         |                                |
| 63 | GRAY IRON AND STEEL FOUNDRIES<br>3500 OR MORE TPY PRODUCTION                       | 3321 | 25            | 500                    | 160  | 525                     | 270                            |
| 64 | GRAY IRON AND STEEL FOUNDRIES<br>b) LESS THAN 3500 TPY                             | 3321 | 25            | 500                    | 160  | 525                     | 270                            |
| 65 | MALLEABLE IRON FOUNDRIES<br>a) 3500 OR MORE TPY PRODUCTION                         | 3322 | 25            | 500                    | 160  | 525                     | 270                            |
| 66 | MALLEABLE IRON FOUNDRIES<br>b) LESS THAN 3500 TPY                                  | 3322 | 25            | 125                    | 80   | 150                     | 80                             |
| 67 | STEEL INVESTMENT FOUNDRIES<br>a) 3500 OR MORE TPY PRODUCTION                       | 3324 | 25            | 500                    | 160  | 525                     | 270                            |
| 68 | STEEL INVESTMENT FOUNDRIES<br>b) LESS THAN 3500 TPY                                | 3324 | 25            | 125                    | 80   | 150                     | 80                             |
| 69 | STEEL FOUNDRIES NOT ELSEWHERE CLASSIFIED<br>a) 3500 OR MORE TPY PRODUCTION         | 3325 | 25            | 500                    | 160  | 525                     | 270                            |
| 70 | STEEL FOUNDRIES NOT ELSEWHERE CLASSIFIED<br>b) LESS THAN 3500 TPY                  | 3325 | 25            | 125                    | 80   | 150                     | 80                             |
| 71 | SECONDARY SMELTING AND REFINING OF<br>NON-FERROUS METALS                           | 3341 | 25            | 225                    | 100  | 250                     | 130                            |
| 72 | ALUMINUM FOUNDRIES(CASTINGS)   | 3361 | 25            | 125                    | 80   | 150                     | 80                             |
| 73 | BRASS, BRONZE, COPPER BASED<br>ALLOY FOUNDRIES                                     | 3362 | 25            | 125                    | 80   | 150                     | 80                             |
| 74 | ELECTROPLATING, POLISHING AND ANODIZING<br>WITH 5 OR MORE EMPLOYEES                | 3471 | 25            | 100                    | 60   | 125                     | 70                             |
| 75 | GALVANIZING AND PIPE COATING<br>EXCLUDING ALL OTHER ACTIVITIES                     | 3479 | 25            | 100                    | 60   | 125                     | 70                             |
| 76 | OIL FIELD MACHINERY & EQUIPMENT  | 3533 | 25            | 100                    | 40   | 125                     | 70                             |
| 77 | BATTERY MANUFACTURE  | 3691 | 25            | 125                    | 80   | 150                     | 80                             |
| 78 | GRAIN ELEVATORS<br>a) 20000 OR MORE TPY  | 4221 | 25            | 200                    | 140  | 225                     | 120                            |
| 79 | GRAIN ELEVATORS<br>b) LESS THAN 20,000 TPY   | 4221 | 25            | 75                     | 60   | 100                     | 60                             |
| 80 | ELECTRIC POWER GENERATION<br>a) GREATER THAN 25MW                                  | 4911 | 25            | 1000                   | 370  | 1025                    | 520                            |
| 81 | ELECTRIC POWER GENERATION<br>b) 25 MW AND LESS                                     | 4911 | 25            | 350                    | 190  | 375                     | 190                            |
| 82 | NATURAL GAS TRANSMISSION(PIPE LINE)<br>GREATER THAN 1000 H.P.                      | 4922 | 25            | 150                    | 60   | 175                     | 90                             |
| 83 | GAS PRODUCTION AND/OR MANUFACTURING<br>NOT NATURAL GAS FROM OIL AND GAS FIELDS     | 4925 | 25            | 375                    | 100  | 400                     | 210                            |
| 84 | INCINERATORS<br>a) 1000LBS/HR. AND GREATER CAPACITY                                | 4953 | 25            | 100                    | 60   | 125                     | 70                             |
| 85 | INCINERATORS<br>LESS THAN 1000 TO 40 LBS/HR  | 4953 | 25            | 50                     | 20   | 75                      | 40                             |
| 86 | NATURAL GAS FIRED BOILERS<br>GREATER THAN 250 MILLION BTU/HR                       | 4961 | 25            | 25                     | 10   | 50                      | 30                             |
| 87 | DISTILLATE OIL FIRED BOILERS<br>a) >=250 MILLION BTU/HR                            | 4961 | 25            | 150                    | 60   | 175                     | 90                             |
| 88 | DISTILLATE OIL FIRED BOILERS<br>b) >=5 MILLION BUT <250 MILLION BTU/HR             | 4961 | 25            | 25                     | 30   | 50                      | 30                             |
| 89 | RESIDUAL OIL, WOOD, OR COAL FIRED BOILERS<br>a) >=250 MILLION BTU/HR               | 4961 | 25            | 150                    | 60   | 175                     | 90                             |
| 90 | RESIDUAL OIL, WOOD OR COAL FIRED BOILERS<br>b) >=5 MILLION BUT <250 MILLION BTU/HR | 4961 | 25            | 100                    | 40   | 125                     | 70                             |
| 91 | RESIDUAL OIL, WOOD OR COAL FIRED BOILERS<br>c) <5 MILLION BTU/HR                   | 4961 | 25            | 25                     | 30   | 50                      | 30                             |
| 92 | WHOLESALE DISTRIBUTION OF COAL, COKE<br>AND OTHER BULK GOODS(NOT GRAIN)            | 5052 | 25            | 175                    | 120  | 200                     | 110                            |

TABLE 8-LOUISIANA PERMIT FEE SCHEDULE

|    | AIR CONTAINANT SOURCE                                      | SICC | FILING FEE | PRO-CESSEING FEE | ANNUAL COMPLIANCE DETERMI-NATION | NEW APPLI-CATION | MODI-FIED PERMIT FEE |
|----|--|------|------------|------------------|----------------------------------|------------------|----------------------|
| 93 | GRAIN ELEVATORS-TERMINAL<br>A) 20000 OR MORE TPY           | 5153 | 25         | 500              | 160                              | 525              | 270                  |
| 94 | GRAIN ELEVATORS-TERMINAL<br>b) LESS THAN 20,000 TPY        | 5153 | 25         | 150              | 60                               | 175              | 90                   |
| 95 | WHOLESALE DISTRIBUTION OF CHEMICALS<br>AND ALLIED PRODUCTS | 5161 | 25         | 100              | 60                               | 125              | 70                   |
| 96 | PETROLEUM BULK TERMINAL                                    | 5171 | 25         | 200              | 110                              | 225              | 120                  |
| 97 | PETROLEUM BULK PLANTS                                      | 5171 | 25         | 50               | 20                               | 75               | 40                   |

\* \* \* \* \*

In Section 22.3 revise the first sentence to read as follows: No person shall place, store or hold in any stationary tank, reservoir, or other container of more than 40,000 gallons (151,400 liters) capacity any volatile organic compounds unless such tank, reservoir or other container is a pressure tank capable of maintaining working pressures sufficient at all times under normal operating conditions to prevent vapor or gas loss to the atmosphere or is designed and equipped with a submerged fill pipe and one of the following vapor loss control devices:

\* \* \* \* \*

Add the following sentence to the end of Section 22.5: This regulation is not applicable to ship and barge loading operations.

William A. Cherry, M.D., Chairman  
Air Control Commission

**RULES**

**Department of Health and Human Resources  
Board of Chiropractic Examiners**

The Board has repealed the following:

II. Professional signs must be located on the property occupied by the professional office unless otherwise approved by the Board.

VI. A licensee may not permit his name or office to be listed in the yellow pages of the telephone directory as being a member of any professional association or trade organization or as being approved by such organizations or to permit such organizations to recommend or otherwise solicit patronage for him.

\* \* \* \* \*

The Board has adopted the following rules:

II. A chiropractor may advertise only the professional organizations or associations with which he is affiliated.

VI. Advertising should not compare one chiropractor with another, one technique with another technique, nor one profession with another profession.

VII. A chiropractor may not advertise gifts to attract patients.

VIII. A chiropractor may not advertise the college from which he graduated.

IX. A chiropractor may not advertise the chiropractic technique he uses.

X. If a chiropractor advertises that a certain number of patient's symptoms are alleviated by chiropractic care, the source of the statistics must be provided in that advertisement.

XI. Although testimonials may be used, the name of the doctor may not be used in the testimonial. However, the name

of the doctor may appear or be used with the testimonial reflecting that said doctor paid for the advertisement.

Fred E. Bates, President  
Board of Chiropractic Examiners

**RULE**

**Department of Health and Human Resources  
Office of Family Security**

The Department of Health and Human Resources, Office of Family Security, has adopted, effective August 1, 1979, policy in regard to reimbursement for emergency medical transportation outside the provider's geographical base rate region. Reimbursement, not to exceed twenty-five miles, will be made for travel outside the provider's geographical base rate region. The Office of Family Security will establish the reimbursement rate. In exceptional situations state office may approve payment for mileage in excess of twenty-five miles if evidence is submitted by the provider which clearly establishes that the hospital is the nearest one with appropriate facilities for the necessary care.

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

**RULES**

**Department of Health and Human Resources  
Office of Family Security**

Beginning June 1, 1979, the Department of Health and Human Resources, Office of Family Security, has adopted a policy to allow standard deductions from gross earnings for expenses incidental to employment for Long Term Care patients, employed in intermediate care facilities for the mentally retarded (ICF/MR) activity centers. The policy reads as follows:

Long Term Care patients who have earned income (except public ICF/MR activity center earnings) shall be eligible for a standard deduction from their gross earned income to allow for incidental expenses related to their employment. The amounts allowed in the standard deductions include both personal and nonpersonal expenses which are incurred because of extra need and upkeep due to employment or self-employment, such as required deductions for withholding taxes and social security deductions, required union dues and retirement deductions, tools, supplies, uniforms, work gloves, goggles, and special shoes.

The amount of standard deduction is based on the amount of gross earnings as is specified by the following chart.

| <b>Gross earnings from employment or profit from self-employment</b> | <b>If employed, deduct</b> | <b>If self-employed, deduct</b> |
|--|----------------------------|---------------------------------|
| \$ 0 to \$ 29.99   | \$ 9.00                    | \$ 9.00                         |
| 30.00 to 44.99   | 11.00                      | 11.00                           |
| 45.00 to 69.99   | 12.00                      | 12.00                           |
| 70.00 to 119.99  | 15.00                      | 14.00                           |
| 120.00 to 199.99   | 28.00                      | 25.00                           |
| 200.00 and over  | 30.00                      | 30.00                           |

If the recipient claims expenses higher than the standard deduction and can document the claim, the actual documented expenses are to be used in arriving at net income.

The cost of transportation is not included in the above standard deduction amount. If free transportation to employment is not available the actual cost of transportation shall be deducted.

Long term care patients with earnings from sheltered workshops participation are eligible for a twenty dollar monthly protected income allowance. This twenty dollar disregard is deducted from gross earnings as the first step in determining earned income to be applied in computing long term care applicable income. The appropriate standard deduction for the gross earnings is then deducted.

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

## **RULES**

### **Department of Health and Human Resources Office of Human Development**

The Department of Health and Human Resources, Office of Human Development, has adopted a manual of rules and policies and procedures for the implementation of the client placement system mandated by Act 786 of 1978.

The Department of the State Register has determined that the manual would be unduly cumbersome to publish, and has therefore omitted its publication in accordance with R.S. 49:954.1C. Copies of the manual may be obtained from Mr. Don Fuller, Director, Division of Evaluation and Services, Box 44065, Baton Rouge, Louisiana 70804.

Melvin Meyers, Jr., Assistant Secretary  
Office of Human Development

## **RULES**

### **Department of Health and Human Resources Office of the Secretary**

#### **Part A. General Provisions**

1. Purpose. These rules implement Section 7 of Title 44 of the Louisiana Revised Statutes by establishing procedures whereby medical records may be exhibited to or copied by persons legitimately and properly interested in the disease or condition of patients.

2. Policy. It is the policy of the Department to protect, to the fullest extent possible, the privacy of individuals, while permitting the disclosure of medical information as is required to fulfill the administrative responsibilities of the Department, to further scientific research, and to assist the patient.

3. Applicability. These rules apply to every agency within the Department which maintains or makes use of medical information concerning individuals. If an agency is governed by federal regulations which provide stricter standards of confidentiality, these rules

shall be deemed superseded by the federal regulations, to the extent that they are in conflict with the federal regulations.

#### 4. Definitions.

a. "Agency" means each hospital, clinic, institution, school for the mentally deficient, mental health facility, office, bureau, division, board, commission, or other entity which has been placed within the Department of Health and Human Resources, which maintains or makes use of medical information concerning individuals.

b. "Department" means the Department of Health and Human Resources.

c. "Designated representative" is a physician or mental health professional selected by a patient to review the patient's medical record for the purpose of determining what information in the patient's record will be disclosed to the patient.

d. "Medical emergency" means a situation where, in competent medical judgment, disclosure of medical information is reasonably necessary and any delay in attempting to procure the patient's consent to disclosure of medical information would jeopardize the life or health of the patient or could reasonably result in disfigurement or impairment of faculties.

e. "Medical information" means and includes the charts, records, reports, documents, and other memoranda prepared by physicians, surgeons, psychiatrists, nurses, and employees of the public hospitals, public mental health facilities, public schools for the mentally deficient, public health facilities and other agencies to record or indicate the past or present, mental or physical, condition of patients.

f. "Mental health professional" means and includes psychiatrists, psychiatric social workers, psychiatric nurses and psychologists.

g. "Minor" means any unemancipated individual who has not attained the age of eighteen years.

h. "Patient identifying information" means the name, address, social security number, or similar information by which a patient's identity can be determined with reasonable accuracy and speed.

i. "Person" means any individual, partnership, corporation, association, organization, state or federal department, or state or federal agency.

j. "Superintendent" means the superintendent of any hospital that is an agency of the Department and includes the director or the highest ranking official of an agency not headed by a superintendent.

k. "Tutor" means and includes either parent of a minor, where both parents are living and married to each other; the parent having legal custody of the minor, where the parents are separated or divorced; the surviving parent of the minor if one of the parents is deceased; any court appointed tutor or guardian; and the secretary of the Department where custody of the minor has been awarded to an office or agency of the Department.

5. Confidentiality of medical information. Medical records shall be confidential and may only be disclosed as authorized by these rules.

6. Continuance of confidentiality. A patient's medical records shall continue to be confidential after the patient is discharged from an agency or is no longer receiving treatment from an agency.

7. Secondary medical information. Secondary medical information shall be disclosed in the same manner as primary medical information for disclosures made pursuant to Part C of these rules. For disclosures made pursuant to Parts B and D, an agency shall disclose secondary medical information only if such disclosure is clearly intended by the patient and if the preparer of the secondary medical information authorizes its disclosure. Whenever an agency denies a request for disclosure of secondary medical information pursuant to this rule, the agency shall refer the person requesting

the secondary medical information to the preparer of the information. For purposes of this rule, primary medical information means medical information that has been prepared by a person who is an employee of or a contractor with the agency which has custody of the information. Secondary medical information means medical information that is contained in the agency's patient record that

was prepared by someone who is not an employee of or a contractor with the agency.

8. Extent of disclosure. Any disclosure made pursuant to these rules, whether with or without the patient's consent, shall be limited to information necessary in light of the need or purpose for the disclosure, as is determined by the superintendent.

**Disclosure Record  
For**

**(Name of Patient)**

| Time and Date of Disclosure | Information Disclosed | Basis for Disclosure | Purpose of Disclosure | Person to Whom Disclosure Made | Person by Whom Disclosure Made | Remarks |
|-----------------------------|-----------------------|----------------------|-----------------------|--------------------------------|--------------------------------|---------|
|                             |                       |                      |                       |                                |                                |         |

9. Records concerning disclosure. When medical information is disclosed pursuant to Part B of these rules, a copy of the consent form shall be placed in the patient's record. A notation shall be made on the consent form indicating the time and date disclosure was made and the name of the person by whom disclosure was made. When medical information is disclosed pursuant to Part C of these rules, except pursuant to rule 30, a written memorandum shall be made in the patient's record containing the following information:

- a. The name of the patient.
- b. The time and date on which disclosure was made.
- c. The purpose of the disclosure.
- d. The person to whom disclosure was made.
- e. The person by whom disclosure was made.
- f. The information disclosed.
- g. A brief description of the basis for disclosure such as patient consent, medical emergency, scientific research, program evaluation, audit, etc. If disclosure does not contain any patient identifying information, no disclosure record is required. (A sample disclosure record is attached.)

10. Redislosures prohibited. No person or agency to whom medical information has been disclosed shall further disclose such information except as authorized by these rules.

11. Notice prohibiting disclosures. Whenever a written disclosure of medical information is made under the authority of these rules, a notice shall accompany the medical information. This notice shall state: "The medical information contained herewith is confidential pursuant to the law of Louisiana and the rules of the Department of Health and Human Resources. Further disclosure of this information in a form which contains patient identifying information and in a manner inconsistent with state law and regulations is prohibited." Whenever medical information is disclosed orally, the recipient shall be warned that redislosure is prohibited.

12. Copies of records. The agency shall charge the person to whom disclosure is made a fee of one dollar per copied page to defray the cost of photocopying. If the person to whom disclosure is to be made is a court of competent jurisdiction, a physician, a health facility, a state or federal agency or a school, no fee shall be charged.

13. Verification of the identity or status of person seeking disclosure. Before any disclosure of medical information is made, the superintendent shall use reasonable means to verify the identity or status of the person to whom disclosure is to be made.

14. Medical information concerning minors. Except as is provided in Parts C and D of these rules, medical information concerning a minor can only be disclosed upon the written consent of the parent or tutor of the minor. However, if the minor has consented to medical treatment pursuant to R.S. 40:1095 (treatment for illness or disease), R.S. 40:1096 (treatment for drug abuse), or R.S. 40:1065.1 (treatment for venereal disease), medical information can only be disclosed upon the written consent of the minor. Consent to disclosure of medical information which has been executed by a minor shall not be subject to a later disaffirmance by reason of his minority. Upon the advice and direction of a treating physician, a physician or a member of a medical staff may, but shall not be obligated to, inform the spouse, parent, or tutor of the minor as to the treatment given or needed and this information may be given or withheld without the consent and over the express objection of the minor.

15. Medical information concerning interdicts. Except as provided in Part C of these rules, medical information concerning an interdict shall only be disclosed upon the written consent of the curator of the interdicted patient.

16. Medical information concerning deceased persons. Except as provided in Part C of these rules, medical information concerning a deceased person shall be disclosed upon the written consent

of the administrator or executor of the succession of the decedent. In the event no administrator or executor has been appointed, the decedent's spouse, parent, or any child of the age of majority is authorized to execute the written consent.

17. Medical information concerning incapacitated patients. Except as is provided in Part C of these rules, medical information concerning a patient who is temporarily incapacitated from consenting to disclosure because of physical or mental infirmities as is determined by the attending physician, shall be disclosed only upon the written consent of the patient's spouse, major child, or parent.

18. Refusal to consent to disclosure of records. Except as otherwise provided in these rules, all patients have the right to refuse to consent to the disclosure of medical information concerning themselves and no agency shall refuse medical treatment to a patient solely because he refuses to consent to the disclosure of medical information about himself.

19. Delegation of authority by the superintendent. Whenever these rules assign a function or responsibility to a superintendent, the superintendent may delegate this function or responsibility to any employee under his control, who, in the superintendent's opinion, is qualified to perform the function or responsibility.

### **Part B. Disclosures with the Patient's Consent**

20. Written consent required. Consent to disclosure of medical information must be in writing and must contain the following:

- a. The name of the patient.
- b. The name of the agency which is to make the disclosure.
- c. The name or title of the person to whom disclosure is to be made.
- d. The purpose or need for disclosure.
- e. The extent or nature of the information to be disclosed.
- f. The date on which the consent is given.
- g. A statement that consent is subject to written revocation at any time, except to the extent that action has already been taken on it.
- h. A specification of the date, event or condition upon which consent will expire without written revocation.
- i. The signature of the patient or person authorized by these rules to sign in lieu of the patient.
- j. The signature of at least one witness. Each consent form must bear original signatures. Copies of signed consent forms are not acceptable. (Sample consent forms are attached. See pages 178 and 179.)

21. Duration of consent. Any consent given under these rules is revocable in writing at any time, except to the extent that action has been taken in reliance thereon. Consent shall continue to be effective until it is specifically revoked in writing, or until the time, date or condition specified has occurred.

22. Disclosures for the purpose of diagnosis, treatment, or education. Where consent is given in accordance with Part B, Rule 20, disclosure of medical information may be made to medical personnel, to treatment programs, or to educational facilities where disclosure is needed to better enable them to furnish services or instruction to the patient to whom the information pertains.

23. Disclosure to family members. Where consent is given in accordance with Part B, Rule 20, disclosure of medical information may be made to a member of the patient's family.

24. Disclosures to third party payers and funding sources including insurance companies. Where consent is given in accordance with Part B, Rule 20, disclosure of medical information may be made to third party payers and funding sources including insurance companies, but such disclosure must be limited to that information which is reasonably necessary for the discharge of the legal or contractual obligations of the third party payer or funding source. Ordinarily, disclosures under this rule will consist of the

CONSENT TO DISCLOSURE OF MEDICAL RECORDS

WAIVER OF CONFIDENTIALITY

(PATIENT FORM)

I, \_\_\_\_\_ (1) \_\_\_\_\_, understand that the information contained in my medical record is confidential. However, I specifically give my consent for \_\_\_\_\_ (2) \_\_\_\_\_ to release the following information to \_\_\_\_\_ (3) \_\_\_\_\_:

(4)

The above-listed information is to be disclosed for the purposes of \_\_\_\_\_ (5) \_\_\_\_\_. This consent is subject to written revocation at any time except to the extent that action has already been taken in reliance upon this consent. This consent will automatically expire \_\_\_\_\_ (6) \_\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature of patient

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

(1) name of patient

(2) name of agency

(3) name of person to whom disclosure is to be made

(4) specify what information is to be disclosed

(5) specify purposes for disclosure

(6) specify the date, event or condition under which consent will expire without express revocation

CONSENT TO DISCLOSURE OF MEDICAL RECORDS

WAIVER OF CONFIDENTIALITY

FORM FOR AUTHORIZED REPRESENTATIVE

I, \_\_\_\_\_ (1), am the \_\_\_\_\_ (2)  
\_\_\_\_\_ of \_\_\_\_\_ (3), a  
\_\_\_\_\_ (4). I understand that the information  
contained in \_\_\_\_\_ (3)'s medical record is  
confidential. However, I specifically give my consent for \_\_\_\_\_ (5)  
\_\_\_\_\_ to release the following information concerning  
\_\_\_\_\_ (3) to \_\_\_\_\_ (6):

(7)

The above-listed information is to be disclosed for the purposes of  
\_\_\_\_\_ (8).

This consent is subject to written revocation at any time except to the  
extent that action has already been taken in reliance upon this consent. This  
consent will automatically expire \_\_\_\_\_ (9).

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of authorized representative

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature of patient, if a minor

- (1) name of authorized representative
- (2) father, mother, tutor, curator, executor of the succession or spouse, as appropriate
- (3) name of patient
- (4) minor, interdict, deceased person as appropriate
- (5) name of agency
- (6) name of person to whom disclosure is to be made
- (7) specify what information is to be disclosed
- (8) specify purposes for disclosure
- (9) specify the date, event, or condition under which consent will expire without express revocation.

patient's name and address, diagnosis, treatment and the charges for the treatment provided.

25. Disclosures to employers. Where consent is given in accordance with Part B, Rule 20, disclosure of medical information may be made to a current or prospective employer of a patient. Ordinarily, disclosures under this rule will be limited to verification of medical treatment or a general evaluation of the patient's progress or prognosis.

26. Disclosures to a patient's attorney. Where consent is given in accordance with Part B, Rule 20, disclosure of medical information may be made to a patient's attorney upon the attorney's written request.

27. Disclosures to persons not covered by these rules. In any situation not otherwise provided for in these rules, where consent is given in accordance with Part B, Rule 20, disclosure of medical information may be made to any person if the superintendent determines that the disclosure was clearly intended by the patient.

### **Part C. Disclosures without the Patient's Consent**

30. Disclosures among agency employees. Disclosure of medical information among the employees of an agency is authorized without the consent of the patient where the employee has a legitimate need for the information in connection with his duties. For purposes of this rule, "employees of an agency" shall include persons under contract with the agency and the employees of private contractors providing services to an agency. The superintendent is authorized to determine what constitutes legitimate need.

31. Disclosures among Department employees. Disclosure of medical information from one agency to an employee of another agency is authorized without the consent of the patient only in the following situations: (1) when the disclosing agency is required by state law or regulation to provide medical information to the receiving agency; (2) when the disclosing agency and the receiving agency participate in a cooperative program and the medical information is maintained for the purposes of the cooperative program; (3) when an agency has referred one of its patients, clients or residents to another agency for evaluation or treatment; and (4) when an agency cannot perform its function without access to medical information and consent to disclosure of medical information cannot reasonably be obtained. The superintendent of the disclosing agency shall determine whether one of the four enumerated situations exists.

32. Disclosures in case of medical emergencies. Disclosure of medical information to medical personnel and law enforcement personnel is authorized without the consent of the patient to the extent necessary to meet a genuine medical emergency.

33. Disclosures to qualified personnel for the purpose of scientific research, statistical compilation, audit, or evaluation. Disclosure of medical information to qualified personnel is authorized without the consent of the patient, for the purposes of scientific research, statistical compilation, audit and evaluation when the information disclosed does not contain patient identifying information. The term "qualified personnel" means persons whose training and experience are appropriate to the nature and level of the work in which they are engaged and may include both agency and nonagency personnel. The superintendent shall use reasonable means to determine the qualifications of the personnel requesting disclosure under this rule. If the person compiling the scientific research, statistical analysis, audit, or evaluation report believes that patient identifying information is essential to his compilation, he shall direct his request for information in writing to the Secretary of the Department. This request shall contain an explanation of the nature and purpose of the compilation and of the reason patient identifying information is deemed essential. The Secretary shall review the request and shall authorize the disclosure of the medical information containing patient identifying information only if he

determines that the value of the compilation outweighs the patient's right to privacy. If the request is granted, the Secretary shall advise the person making the request that his request is granted subject to the following conditions:

(1) That the final compilation will not contain any patient identifying information.

(2) That the recipient will be given access, during regular working hours, to medical information containing patient identifying information from which he may abstract the information sought, but that he will not be allowed to remove medical records containing patient identifying information or copies thereof from the agency's premises.

(3) That, as soon as the compilation is complete, the recipient will either destroy the abstracts of the medical information in their entirety or will remove the patient identifying information therefrom and will destroy the patient identifying information.

(4) That the person receiving the medical information will assume all civil responsibility for invasion of privacy if he violates either of the above conditions.

(5) That the person receiving the medical information will sign an agreement to abide by these conditions.

Upon receipt of the agreement of compliance, the Secretary shall authorize the agencies involved to release the medical information. If the Secretary determines that the value of the compilation does not outweigh the patient's right to privacy he may either deny the request or may authorize disclosure of the medical records with the patient identifying information deleted.

34. Disclosures to law enforcement personnel. When a patient commits or threatens to commit a crime on an agency's premises, disclosure of the following information to law enforcement personnel is authorized without the consent of the patient: the patient's name, location at the time the crime was threatened or committed, address and last known whereabouts. When an agency receives for treatment a child who has been the subject of abuse or neglect, as is determined by the treating physician or mental health professional, the agency may disclose to law enforcement personnel, without the consent of the child or his parent or tutor, the name and address of the child, the name and address of the person presenting the child for treatment, and such medical information about the child that would support the conclusion that the child had been abused or neglected. Nothing in this rule shall be construed as limiting the right of law enforcement personnel to medical information where such information is needed to meet a genuine medical or law enforcement emergency.

35. Disclosures for purposes of disciplinary action. When the appointing authority of an agency seeks to take disciplinary action against an employee of the agency on the grounds of inadequate or improper patient care, the appointing authority shall describe the inadequate or improper patient care in the letter effecting or confirming the disciplinary action. The letter shall refer to the patient by number only. Upon the request of the attorney representing the agency or of the disciplined employee or his attorney, the agency shall provide copies of the medical records relied upon for the disciplinary action. These copies shall contain the patient number, but shall not contain the name of the patient. Thereafter, these copies may be filed as exhibits with the Civil Service Commission or a court of competent jurisdiction. Disclosures under this rule do not require the consent of the patient to whom the information pertains.

36. Disclosures pursuant to court orders and subpoenas. Nothing in these rules is intended to impede the disclosure of medical information pursuant to an order of a court of competent jurisdiction, a subpoena, or other discovery device including, but not limited to, interrogatories, depositions, requests for production, and requests for admissions, where a patient's condition is at issue in or relevant to a judicial proceeding. The superintendent shall

take reasonable measures to ascertain whether a patient's condition is at issue or relevant before disclosure is made.

37. Disclosures required by state or federal law. Nothing in these rules is intended to impede the disclosure of medical information when such disclosure is required by state or federal law. (Cross references: R.S. 14:403, 40:18, 40:39, 40:1065, 40:1065.1, 40:1095, 40:1096, 40:1102, 40:1299.21, 40:1299.76, 40:2013.3, 40:2014.1, 40:2017.9, 40:2124, 40:2143, 44:7.)

#### **Part D. Disclosures to Patients**

40. Patient's right of access to medical information. Every patient has a qualified right of access to medical information concerning himself which is maintained by an agency.

41. Written request naming representative required. Any patient who seeks to exercise his right of access to medical information concerning himself shall direct his request in writing to the superintendent of the agency which maintains the records. This request shall contain sufficient information to enable the agency to locate the records sought and shall designate a representative who would be willing to review the records and inform the patient of its contents or allow the patient to inspect his record, at the representative's discretion.

42. Use of the designated representative. The patient shall be granted direct access to medical information concerning himself only if the superintendent determines that direct access is not likely to have an adverse effect on the patient. If the superintendent believes that he is not qualified to determine, or if he does determine, that direct access to the patient is likely to have an adverse effect on the patient, the record shall be sent to the designated representative. The patient shall be notified in writing when the record is sent to the designated representative. The designated representative shall review the patient's record and shall inform the patient of its contents or allow the patient to inspect the record, at the representative's discretion.

43. Minor patients' access to medical information. A minor patient who seeks to exercise his right of access to medical information shall direct his request in writing to the superintendent in accordance with Part D, Rule 41.

44. Use of the designated representative where a minor requests access to his medical records. A minor patient shall not be granted direct access to medical information concerning himself. Whenever a minor patient seeks access to medical information about himself, the superintendent shall send the records to the designated representative who will review the minor patient's record and inform the minor of its contents or allow the minor to inspect his record at the representative's discretion.

45. Access to medical information concerning a minor patient by persons other than the minor patient. A parent or tutor of a minor patient who seeks access to medical information concerning his minor child or ward shall direct his request in writing to the superintendent in accordance with Part D, Rule 41.

46. Use of the designated representative where a parent or tutor requests access to a minor patient's medical records. A parent or tutor of a minor patient shall not be granted direct access to medical information concerning his minor child or ward. Whenever a parent or tutor seeks access to medical information concerning his minor child or ward, the superintendent shall determine whether disclosure of the information would constitute an unwarranted invasion of the minor's privacy. If the superintendent determines that disclosure would constitute an unwarranted invasion of the minor's privacy, he will bring this to the attention of the designated representative. The designated representative will then consider the effect that disclosure of information to the parent or tutor would have on the minor patient in determining what information contained in the minor's medical record will be made available to the parent or tutor.

47. Patient's right to disclosure record. Upon the written request of a patient or of a person authorized by these rules to give consent on behalf of a patient, the superintendent shall provide the patient with a copy of the disclosure record required by Part A, Rule 9.

48. Reports concerning patients. Upon the written request of a patient or his attorney or of a patient's heirs or their attorney, the superintendent shall furnish a full report on the patient.

49. Disclosures to patients at physician's initiative. Nothing in this Part shall be construed as prohibiting a physician or mental health professional from permitting a major or minor patient to review his own medical record where the physician or mental health professional considers this disclosure to be in the patient's best interest.

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

### **RULES**

#### **Department of Health and Human Resources Office of the Secretary**

##### **Minimum Guidelines on Format of Public Hearings Held by DHHR Relative to Rulemaking**

I. Statement of Purpose. It is the policy of the Department of Health and Human Resources to fully adhere to the requirements of the Louisiana Administrative Procedures Act, R.S. 49:951 et seq. Provision of a public hearing prior to adopting rules is required in some instances by the Louisiana Administrative Procedures Act and may also be required by federal law(s) which govern programs implementing the rule. In other instances, the Department, through its Offices, may elect on its own initiative to conduct a public hearing in order to obtain the input of the public.

The purpose of the public hearing can be for any one of the following reasons:

A. To allow proponents or opponents of a proposed rule a forum in which they can advise the agency of all relevant facts concerning the subject matter of the proposed rule.

B. To inform the Department of possible ramifications that may occur as result of implementing a proposed rule.

C. To allow all parties to make inquiries as to the scope and substance of a proposed rule and to permit submittal of memoranda, exhibits and other documentary evidence as to a proposed rule.

In order to insure that all such public hearings are orderly and effective, the Department has established minimum procedural guidelines to assist its Offices in preparing for and conducting public hearings relative to rulemaking.

##### **II. Public Hearing.**

A. Notice of Public Hearing. The Department, (or Office within the Department) shall, prior to a public hearing, place a notice in the *Louisiana Register*. This notice must be published at least one week (seven days) prior to the hearing. The Department shall also give at least seven days advance written notice of a public hearing to all persons or groups who have requested such a hearing or who have submitted comments as to the proposed rule.

The notice of the public hearing shall include:

1. Time, date, place, and nature of the hearing. Such shall be fixed by the Department; however, the Department shall endeavor to schedule hearings at a time, date, and place convenient to the majority of persons expected to attend.

2. Statement of the legal authority and jurisdiction under which hearing is to be held.

3. A reference to the appropriate section of the rules involved, or a statement of the issues involved.

B. Conduct of Public Hearing. The public hearing shall be conducted by a Department official designated by the Secretary of the Department.

The hearing officer shall have the duty of conducting a fair hearing, including:

1. Taking necessary action to avoid delay, and to maintain order.

2. All powers necessary to these ends including, but not limited to, the power to call the hearing to order, call witnesses, limit the presentation of redundant testimony, identify all exhibits, fix the time for filing written evidence or memoranda, and adjourn the hearing. Such powers also include authority to place a time limit on verbal (oral) presentations, particularly when there are a large number of presenters.

3. The hearing officer shall request, and the Department and/or Office shall have present appropriate program personnel who are knowledgeable about the substance of the proposed rule to answer any questions as to the substance and application of the proposed rule.

C. Recording Content of Public Hearing. Both verbal and written testimony may be introduced. Any type of documentary evidence, memoranda, or other exhibits may be introduced. Each such item must be marked for identification by the hearing officer and attached to the record of the hearing. Evidence may be identified as Exhibit A, B, etc., or Document I, II, etc. Either is acceptable, but a common system of identifying items must be utilized to facilitate review by other agencies, persons, or parties not attending the hearing, and for future reference.

A tape recording shall be made of the testimony taken at the public hearing. The recording need not be transcribed unless specifically requested by an interested party. The party requesting the transcript must pay the costs of transcription and copying. At the option of the Department, a stenographic record may be made in lieu of a tape recording.

The record of the public hearing consisting of the tape recording of the hearing or a transcript thereof and any memoranda, exhibits and documents which were introduced shall be preserved for at least two years following the adoption or amendment of the rule which is the subject of the hearing.

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

## **RULES**

### **Department of Natural Resources**

#### **Hazardous Waste Management Plan**

By virtue of the authority granted the Secretary of Natural Resources under the provisions of R.S. 30:1101 et seq. the following rules and regulations relative to the generation, transportation, storage, and disposal of hazardous waste are hereby promulgated to be effective August 1, 1979.

1.0 Authority. Rules and regulations for a hazardous waste management system are hereby established by the Department of Natural Resources as mandated by Act 334 of the 1978 Legislature which is the state's response to P.L. 94-580, the Resource Conservation and Recovery Act of 1976 (RCRA).

2.0 Purpose. The purposes of these rules and regulations are threefold:

First: to protect the health and well-being of the people of the State of Louisiana and to prevent damage to property or to the environment by the improper management of hazardous waste.

Second: to provide incentives for the maximum recovery and reuse of substances in hazardous waste streams that is possible through the use of the most advanced technology.

Third: to carefully consider the impact of the program on the economic life of the State and to achieve a proper balance which protects the health of the citizens and the environment of the State while meeting the needs of industry.

3.0 Definitions. For all purposes of these rules and regulations the terms defined in this Section shall have the following meanings, unless the context of use clearly indicates otherwise.

Act—Act 334 of the 1978 Louisiana Legislature which established Sections 1101-1116 of Title 30 of the Louisiana Revised Statutes of 1950 and any subsequent amendments to these sections.

Barrier—a physical separation by natural or constructed means which prevents or restricts the penetration to adjacent areas of the harmful effects of hazardous wastes.

Basin—any uncovered area constructed to retain hazardous wastes.

Caretaker management—management by the Secretary, through an appointed manager to operate a hazardous waste facility during the time the permit of the facility is revoked.

Closure—the act of securing and rendering harmless a site which has been used to treat, store, or dispose of a hazardous waste so that it will pose no threat to human health or the environment.

Commercial facility—a hazardous waste treatment, storage or disposal facility which receives and treats, stores, or disposes of waste for a fee or other consideration.

Compliance schedule—remedial measures including an enforceable sequence of events, operations, or milestone actions leading to compliance with these rules and regulations and the Act.

Container—any enclosure in which a material can be stored, handled, transported, treated or disposed.

Contingency plan—an organized, planned, and coordinated course of action to be followed in the event of a fire, explosion, or discharge or release of waste into the environment which has the potential for endangering human health or the environment.

Corrosive waste—a waste subject to these regulations pursuant to provisions of Section 4.1.1 which, because of such properties as acidity or alkalinity would tend to weaken or erode a common construction material.

Department—Department of Natural Resources.

Disposal—the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters of the state.

Disposer—any person or agency who operates a treatment, storage and/or disposal site.

Emergency action—a situation in which there is no feasible alternative, other than the extraordinary actions authorized, to avoid loss of life, serious injury to human health or the environment, or severe damage to property.

Existing facilities—hazardous waste facilities in operation or under construction before the promulgation of the rules and regulations for the Hazardous Waste Program.

Facilities—a group of units (each an individual facility) on a site operated to treat, store, and/or dispose of hazardous waste.

Facility—each structure, pond, impoundment, or other unit of land, together with appurtenances used for the treatment, storage, and/or disposal of hazardous waste.

Floodplain—the lowland and relatively flat areas adjoining inland and coastal areas of the mainland and off-shore islands,

including, at a minimum, areas subject to a one percent or greater chance of flooding in any given year.

**Fresh-water aquifer**—those water bearing formations containing water with quantities of dissolved minerals less than ten-thousand milligrams per liter capable of yielding usable quantities of ground water to drinking water wells, pumps, springs, or streams.

**Generator**—any person or government agency whose act or process produces hazardous waste identified or listed under Section 4.1.1.

**Ground water**—water in the saturated zone beneath the land surface.

**Hazardous material**—a material designated under Section 171.8 of Part 173 of Title 49 of the Code of Federal Regulations to be capable of posing an unreasonable risk to health, safety, or property when transported.

**Hazardous waste** (Note: Also see definition of “waste.”)—a solid waste or combination of solid wastes, subject to these regulations pursuant to provisions of Section 4.1.1 which, because of quantity, concentration, or physical, chemical, or infectious characteristics, may:

A. Cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or,

B. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

**Hazardous waste management**—the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.

**Health care waste**—infectious or other hazardous waste resulting from operations of a health care facility.

**Ignitable waste**—a waste, subject to these regulations pursuant to provisions of Section 4.1.1, of such properties as to constitute a potential fire hazard during its management.

**Incinerator**—an engineered device using controlled flame combustion to thermally decompose hazardous waste.

**Incompatible waste**—a waste unsuitable for commingling with another waste or material if the commingling might result in:

- A. Generation of extreme heat or pressure;
- B. Fire;
- C. Explosion or violent reaction;
- D. Formation of substances which are shock-sensitive, friction-sensitive, or which otherwise have the potential of reacting violently;
- E. Formation of toxic dusts, mists, fumes, gases, or other chemicals; and
- F. Volatilization of ignitable or toxic chemicals due to heat generation in such a manner that the likelihood of contamination of groundwater, or escape of the substances into the environment, is increased; or
- G. Any other similar reactions.

**Infectious waste**—a waste which has the potential to endanger humans or other living organisms by the communication of diseases caused by microorganisms and/or viruses.

**Injection well**—those wells drilled to a strata below any fresh-water aquifer and permitted, or required to be permitted, by the Office of Conservation.

**Lagoon**—a shallow sound, channel, or pond near, or communicating with, a larger body of water, either natural or man-made.

**Landfarm**—application of waste onto land and/or incorporation into the surface soil for the purpose of biological reduction and soil attenuation, including the use of such waste as a fertilizer or soil conditioner.

**Landfill**—a secured area in which hazardous waste is deposited for ultimate disposal and covered with soil.

**Leachate**—liquid that has percolated through or drained from hazardous waste or other man-emplaced materials and contains soluble, partially soluble, or miscible components removed from such waste.

**Location**—geographic area of the state.

**Major modification**—the alteration or physical change in size or capacity of an existing facility used for the storage, treatment or disposal of hazardous waste (by a factor of at least thirty percent for any single facility) and/or the addition of a waste treatment or disposal facility to an existing site.

**Manifest**—the form used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of off-site disposal, treatment, or storage.

**Monitoring**—inspection and collection of data following a predesigned schedule and system on operational parameters of the facility or on the quality of the environment including the air, ground water, surface water, or soils.

**“On-site”**—on the same or geographically contiguous property. Two or more pieces of property which are geographically contiguous but which are divided by public or private right(s)-of-way or connected by a pipeline are considered a single site.

**Operator**—owner, licensee, manager, etc.—whoever has legal authority and responsibility for a facility which generates, transports, treats, stores, or disposes of any hazardous waste.

**Person**—an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, an interstate body, or the federal government or any agency of the federal government.

**Petition**—a written request made to the Secretary.

**Pond**—a confined body of standing water usually smaller than a lake, either natural or man-made.

**Proper**—a qualifying adjective requiring consistency with any operating procedures published by the Department.

**Public water supply well**—a well for the provision to the public of piped water for human consumption if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days out of the year.

**Reactive waste**—a waste subject to these regulations pursuant to provisions of Section 4.1.1 which is normally unstable or which may endanger life or property in the presence of other substances likely to be encountered in the management of waste.

**Reclaimer**—one who reclaims barrels or other containers for use by removing all hazardous residue of prior contents.

**Resource recovery**—recovery of useful material or energy from hazardous waste.

**Run-off**—that portion of precipitation that drains over land as surface flow.

**Rural**—all areas zoned rural or not zoned at all by a municipality or parish.

**Site**—land area and appurtenances thereon and thereto used for the treatment, storage and/or disposal of hazardous waste.

**Secretary**—the Secretary of the Department of Natural Resources.

**Sludge**—any solid, semisolid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effects.

**Small quantities**—quantities which, by quantity and degree of hazard, pose no threat to health or to the environment.

**Solid waste**—any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permit under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

**Special waste**—those wastes which pose minimum threat to life or property and which occur in very large quantities.

**Spill**—any unauthorized discharge or release of hazardous waste onto or into the land, air or water.

**Standards**—performance criteria established by Department of Natural Resources to govern the hazardous waste program.

**Storage**—the containment of hazardous waste for such time as may be permitted by regulations in such a manner as not to constitute disposal of hazardous waste.

**Storage Facility**—any environmentally sound facility used to store hazardous waste.

**Surface Impoundments**—uncovered ponds, pits, or lagoons.

**Temporary Storage**—storage of a generator's waste on-site for less than ninety days.

**Toxic waste**—a waste subject to these regulations pursuant to provisions of Section 4.1.1 which, by its chemical, biological or radiological properties, has the potential to endanger human health or other living organisms by means of acute or chronic adverse effects, including poisoning, mutagenic, teratogenic or carcinogenic effects.

**“Transports” or “Transportation”**—the movement of hazardous waste from the point of generation or storage to the point of treatment, storage, or disposal by any means of commercial or private transport. The term does not apply to the movement of hazardous wastes on the premises of a hazardous waste generator or on the premises of a permitted hazardous waste treatment, storage, or disposal facility.

**Transport vehicle**—a motor vehicle, aircraft, rail freight car, freight container, cargo tank, portable tank, or vessel used for the transportation of hazardous waste.

**Treatment** (when used in connection with hazardous waste)—any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

**Type of waste**—waste description by category as classified in Appendix A.

**Urban**—all areas zoned by a municipality or parish other than those zoned rural.

**Volatile waste**—hydrocarbon or other waste, with vapor pressure greater than or equal to 1.5 PSIA.

**Waste**—any material for which no use or reuse is intended and which is to be discarded. (Note: Feed streams to processes from which usable substances (products) are extracted, including use of waste as fuel producing energy, are not considered waste. Only the discarded substances are considered “waste” and subject to these regulations.)

#### 4.0 Scope of the Program and General Provisions.

##### 4.1 Identification of Hazardous Waste.

##### 4.1.1 Criteria for Definition and Classification of Hazardous Wastes.

A. The hazardous waste rules and regulations presented here shall apply specifically to materials identified in one of the following three categories:

Category I—Those known chemicals and process streams whose hazardous nature have been prescribed by prior determination and which are presented in either of the two lists of Appendix A.

Category II—Those special waste categories defined in Section 4.2.1 E, generally consisting of large volumes with consistent characteristics such as typical mining wastes.

Category III—Other wastes possessing any of the characteristics of the hazard classes listed in Appendix A and carrying a hazard rating of 2 or higher as specified therein. Hazard classes of concern for these wastes are ignitability, corrosivity, reactivity, and toxicity. Analytical protocols and level of hazard classes are detailed in Appendix A. Other potential hazard classes, such as radioactivity and infectiousness, are controlled in other State programs (in the Office of Conservation and Department of Health and Human Resources, respectively).

##### 4.2 Control of Wastes.

4.2.1 Agency Responsibility—wastes generated, transported, treated, stored, or disposed in Louisiana are controlled by the State of Louisiana and assigned according to the appropriate statutes of the State of Louisiana as follows, and provided, that nothing contained herein shall limit the authority granted the Department of Natural Resources under the Act.

A. Department of Health and Human Resources—nonhazardous solid wastes treated, stored, and/or disposed in public and private solid waste facilities.

B. Office of Conservation, Department of Natural Resources—responsibilities defined as follows—regulated by Commissioner and subject to rules and regulations promulgated by the Office of Conservation:

a. Salt water injection wells, including related surface installations, drilling mud pits, and other areas associated with the exploration and production of oil and gas.

b. Injection wells, less related surface installations and areas, for industrial on-site or commercial disposal of hazardous wastes.

c. Radioactive materials regulated by the Nuclear Energy Division, Office of Conservation.

C. Department of Public Safety—transportation of wastes.

D. Department of Agriculture—waste pesticides, including pesticide containers, at point of application.

E. Department of Natural Resources, Hazardous Waste Program—responsibility defined as follows:

1. Regulated by the Department and subject to these rules and regulations:

a. Surface installations and areas, less injection wells below surface, associated with the disposal of wastes in injection wells.

b. All wastes identified as hazardous in Section 4.1.1 and not controlled by other agencies identified in 4.2.1 A, B, C, or D, which are generated, treated, stored, or disposed in Louisiana.

2. Exceptions to Otherwise Applicable Provisions of These Regulations.

a. Wastes produced by any person who generates and disposes of small quantities on an infrequent basis

which pose minimum threat to human health or to the environment. The Secretary reserves the right to make individual determinations under this Section.

b. Temporary storage of hazardous wastes stored in an environmentally safe container by generator on-site not more than ninety days. Generators must be able to demonstrate the date storage commenced by proper marking of container or by other methods acceptable to the Secretary. The Secretary may make individual determinations under this section to exempt storage for a greater period of time when such storage poses no threat to public health or the environment.

c. Gasoline service stations are not subject to these rules and regulations except for quarterly reports of type and quantity of hazardous wastes generated, including waste oil, and the requirement that hazardous wastes be sent, properly manifested, to a permitted facility.

### 3. Provisions for Special Wastes.

a. Special large volume wastes, for which consistent management practices are exercised, which pose minimum, if any, threat to life or property and which are derived from operations that are critical to the economy and well-being of the State are placed in a "Special Waste" category. These wastes are subject to special regulations and precautionary monitoring as provided in Section 9.0. The "Special Waste" category includes the following:

i. Spent bauxite (red mud) resulting from production of alumina.

ii. By-product gypsum and related wastes resulting from the production of phosphoric acid and phosphate fertilizers.

iii. Coal residue (bottom ash and slag, fly ash and fluegas emission control waste) after use as a boiler fuel.

iv. Cement kiln dust.

v. Industrial waste water identified as hazardous in 4.1.1 in a National Pollutant Discharge Elimination System (NPDES) treatment train when that train includes ponds, impoundments or similar facilities.

b. Provided, however, the application of these regulations to industrial waste water in an NPDES treatment train and coal residue wastes shall be subject to the following resolatory condition: If the Federal Hazardous Waste Program does not include, or is subsequently altered either by agency action, legislative mandate, or final judicial decision to remove industrial wastewater in an NPDES treatment train or coal residue wastes from the Environmental Protection Agency (EPA) regulations, then these regulations shall likewise cease to apply to wastes not included or so removed from the federal program.

F. Provisions for Waste Regulated by Other Agencies Which Must Report to Department. The following waste must be reported as quantities of waste disposed: drilling mud and brine from production of oil and gas which are transported off-site to a disposer permitted under these regulations.

G. Provisions for Hazardous Waste Regulated by Other Agencies Which Must Report to Department. Health care wastes which are shipped off-site must be transported to a permitted site; wastes disposed on-site are controlled under a hospital licensing permit.

### 4.2.2 Petition to Classify a Waste Hazardous or Nonhazardous.

A. Any person may petition the Secretary to declare a waste hazardous or for exemption of a waste from a given facility from control by these rules and regulations through submission of the following:

1. Proof, including laboratory tests and methodology, that the wastes described in the quantities produced will not endanger life or property or damage the environment. Tests submitted for exemption of wastes in an NPDES treatment train must include samples of waste and sludge or soil at the bottom of ponds, impoundments, treatment facility, and all other areas in the train.

2. Confirmatory tests undertaken by the Department through an independent laboratory.

B. The Secretary will act on this petition in accordance with authority vested in the Act.

### 4.2.3 Petition to Add to, or Delete from the List of Special Wastes.

A. Any person may petition the Secretary to add to, or delete from, the list of special wastes.

B. The petition must be accompanied by a complete description of the waste or operation and sufficient data for the Secretary's evaluation.

C. The Secretary will act on this petition in accordance with authority vested in the Act.

### 4.3 Judicial Review.

4.3.1 A lawsuit may be filed to reverse any act or failure to act by the Secretary pursuant to these regulations or the Act in accordance with the provisions of the Administrative Procedures Act (R.S. 49:951 et seq.) or any other applicable provision of law.

## 5.0 Hazardous Waste Management System.

### 5.1 Administration.

5.1.1 The Department of Natural Resources will administer these rules and regulations.

### 5.2 Permit System.

5.2.1 Permits must be secured by:

A. Operators of facilities which treat, store, and/or dispose of hazardous wastes controlled by this program as listed in 4.2.1 E, less listed exemptions.

B. All permit applications shall be submitted in triplicate on the form presented in 5.3.3 and 5.3.4.

### 5.2.2 Mandatory Provisions.

A. Operation of existing facilities during Department action on the permit application is permitted in accordance with provisions of the Act, except that when the continued operation of an existing facility is determined by the Department to present danger to the public health and the environment, immediate enforcement actions shall be instituted pursuant to Section 10 of these regulations and of the Act.

B. No facility may be used to treat, store, or dispose of hazardous waste without a permit for the specific activities, procedures, and classification of waste handled as outlined in their permit, except as provided in "A" above, in Section 4.2.1E2a and b, or in emergency situations under the direction of the Secretary.

C. No new facilities, or major modifications in existing facilities, for the treatment, storage, or disposal of hazardous wastes may be constructed without a permit.

D. No new facility, or major modification of an existing facility, may commence treatment, storage, or disposal of hazardous waste until the facility is complete and:

1. Certified by the operator and an engineer licensed in Louisiana that the facility is complete and built in accordance with terms of the permit.

2. Inspected by the Department following a "request to make final inspection" by the operator.

E. The Secretary, or his representative, upon presentation of proper credentials, shall have access, during working hours, to the premises of all facilities permitted and to all pertinent records, and shall have the right to take samples from any facility or waste stream covered under this permit.

#### 5.2.3 Types of Authorization for Site Operation.

A. Permits may be issued as follows:

1. Interim Permits—may be issued by Secretary to the operator of an existing operation for a specified length of time while an application is being processed, or while a facility or the entire site is being modified to comply with permit requirements.

2. Standard Permits—issued by the Secretary and valid for the operating life of site subject to the provisions of Section 5.2.8, 5.3.1(24), and 5.5

B. Emergency action authorization—temporary authorization may be granted by the Secretary as a result of an emergency situation for the following actions by an Operator:

1. Accept, treat, store or dispose of waste of a type or category not covered in the permit;

2. Accept for treatment, storage, or disposal of a waste not covered by a manifest;

3. Divert a waste shipment from one location to another without a manifest or prior permission from the generator; or

4. Other actions required to minimize potential damage due to the emergency situation.

5. The Secretary, in granting the Emergency action authorization, shall note, for the files, the justification for the authorization, the action taken, and the benefits realized.

5.2.4 Duration of Permit. Standard permits are issued for the projected life of the site subject to the provisions of Section 5.2.8, 5.3.1(24) and 5.5

5.2.5 Confidentiality. Information submitted as part of the permit application relating to proprietary processes or systems may be held confidential by the Secretary in response to following actions:

1. A request by the operator with reference to the sections of the application affected.

2. An indication of the degree of harm to the operator if this information is made public.

3. A determination by the Secretary that operator's request meets requirements of the Act relating to confidentiality of information.

5.2.6 Public Hearings. Public hearings shall be conducted in accordance with the Administrative Procedures Act (R.S. 49:951 et seq.).

#### 5.2.7 Modification of Permits.

A. Any proposed major modification of a facility or a site, any change in wastes handled in either volume or composition, any other change in the site, facility, or operations which materially deviates from a permit or materially increases danger to the public health or the environment, and any operator or ownership change must be reported in writing to the Secretary prior to such an occurrence. The Secretary may approve an ownership change (transfer of permit) based on the following factors:

1. Assumption of liability for existing violations.

2. Financial responsibility.

3. Managerial competence.

B. The Secretary will determine if such changes require a modification of the permit.

C. If a modification in the permit is required, the Secretary will inform the operator by registered mail, return receipt requested, of such requirement, including, but not limited to:

1. Any specific information required relating to sections of application to be submitted.

2. A schedule of compliance for the new or modified permit.

D. The Secretary shall distribute copies of such applications for modifications in accordance with Section 5.3.1A7.

#### 5.2.8 Suspension or Revocation of Permit.

A. The Secretary may review a permit at any time and shall review a permit and inspect a facility and site in response to information submitted which, if valid, represents evidence of a violation and, after such review, may suspend or revoke a permit, in whole or in part, for cause including, but not limited to the following:

1. Violation of any term of the permit, the applicable rules and regulations, or the Act;

2. Misrepresentation of any material fact in the permit application;

3. Willful failure to disclose all information requested in the permit application;

4. Information, including knowledge not available at time of permit granting, which indicates that the operation poses a threat to human life or the environment; or

5. Any other cause, commission, or omission which is in violation of these regulations or the Act.

B. Procedure for suspension or for revocation of permit:

1. The Secretary shall give notice to the operator, by registered mail, return receipt requested, or violation of the permit or Act, listing the specific violations.

2. If the operator fails to comply with this notice by correcting the cited violations within thirty days from date of notice, the Secretary may issue an order requiring compliance within a specified time, or the Secretary may commence a civil action in the district court in the parish in which the violation occurred for appropriate relief, including a temporary or permanent injunction. If the operator fails to take corrective action within the time specified in the order, the Secretary shall assess a civil penalty, and the Secretary may suspend or revoke the permit, all pursuant to Section 10 of these regulations and the Act.

3. Reconsideration may be requested by the operator in accordance with the provisions of Section 5.3.1A28.

#### 5.2.9 Compliance Schedule for Facilities Existing on the Effective Date of These Regulations.

A. The Secretary, in granting time for an operator to correct deficiencies in facilities existing on the effective date of these regulations, shall set a schedule for achieving compliance.

B. Failure to attain target on final completion of work to achieve compliance on schedule shall be included in the reports required by the Secretary, together with the reasons why compliance has not been achieved.

C. If compliance has not been achieved on schedule, the Secretary may:

1. Extend the schedule time provided the operator furnishes acceptable evidence that such an extension should be allowed; or

2. Take enforcement action pursuant to these regulations and the Act.

### 5.2.10 Fees and Charges.

A. A one-time application fee is charged to cover application, evaluation, and other related program costs. There is no fee for applications for minor modifications.

B. Permit maintenance fees are charged to cover costs of administration and other related program costs. (Details concerning permit maintenance fees are outlined in Section 5.7 "Program Financing.")

#### C. Calculation of Application Fees.

1. The applicant is required to calculate his appropriate application fee according to the schedule included in the permit application form. Payment of this fee must be attached to the application.

#### 2. Fee schedule:

| Item  | Fee                 |
|---|---------------------|
| Site analysis—per acre site size            | \$ 250 <sup>1</sup> |
| Process and plan analysis                   | 1,000               |
| Facility analysis—per facility <sup>2</sup> | 500                 |
| Management/financial analysis               | 1,000               |

Notes: Fee equals total of the four items.

1. Up to one hundred acres, no additional fee thereafter.

2. Incinerator, landfarm, treatment pond, etc., each counted as a facility.

3. Initial payments are limited to a total of fifteen thousand dollars.

D. Provision for collection of additional fees should application fees paid be less than program costs: operators who paid an application fee of fifteen thousand dollars will be assessed an additional fee equalling the deficit, apportioned equally, provided that no operator pays more than the calculated fee in 5.2.10C.

E. Provision for funds collected in excess of program costs: excess funds over program cost generated by this fee shall be credited to the following year's budget.

### 5.3 Permit Application Process.

#### 5.3.1 Process.

A. The initial elements of the process involve the application for and granting of permits. The application process is illustrated in Figure 1 and includes the following steps which are referenced to the figure:

1. Notification. All operators of facilities which generate, transport, treat, store, or dispose of hazardous waste shall notify the Secretary that they are engaged in activities involving hazardous waste as defined in Section 4.1.1 within ninety days of promulgation of these rules and regulations. The format of this notification is illustrated in Figure 2. At the time of notification, request shall be made by the operator for application forms.

2. Within thirty days of receipt of notification, the Secretary will issue to each operator requesting such information a copy of procedures governing permits, application forms, and applicable regulations and standards. The Secretary will assign a notification number indicating the type of operation (G, T, D for Generate, Transport, or Dispose), location (by planning district), and identification number e.g. GD IV-16—generate and dispose waste, located in Planning District IV, and number 16 to apply in that district).

3. The operator may continue to operate existing facilities during time required for Department to act on permit as provided in Section 5.2.2A.

4. A complete application as outlined in 5.3.3 must be filed by each operator of a facility or group of facilities on

a site that treats, stores, or disposes of hazardous wastes within ninety days of date application forms are mailed to operator. The Secretary may grant an extension of an additional period of ninety days upon request of operator when supported by valid reasons why an extension is needed.

5. Applications which lack information necessary for proper evaluation will be returned to the operator within thirty days of receipt of application with a list of additional data required and the time frame for submission of additional data.

6. Applications which are complete will be accepted for review. Operators will be notified of such acceptance for review within sixty days of receipt of application.

7. Upon acceptance of an application for review, the Secretary will distribute copies of the application (Part I) for review and comment to: the public ((filed with local libraries or other public facility), published in a bulletin (see Section 5.7.7), and as an ad in a local newspaper), Louisiana Stream Control Commission, Louisiana Air Control Commission, Office of Health Services and Environmental Quality, Division of Environmental Services of the Department of Health and Human Resources, Department of Wildlife and Fisheries, Office of Public Works of the Department of Transportation and Development, or the successors to any of the above, and to local governing authorities of any municipality and parish within whose territorial jurisdiction the facility or activity is located.

8. The Department evaluation will consider.

a. Purpose and use of facilities.

b. Operations and monitoring plant.

c. Capacity.

d. Closure.

e. Site suitability.

f. Financial responsibility.

g. Legal considerations.

h. Special considerations deemed necessary by the Secretary on a site specific basis.

i. Local zoning ordinances.

9. Comment from the public and involved local, parish and state agencies will be reviewed. The Secretary may consider that agencies not commenting within thirty days from the date the ad is published in the newspaper "have no objection to the proposed operation."

10. The Secretary will determine the necessity for a public hearing based on comments received and other available information.

11. Public hearings will be held as follows:

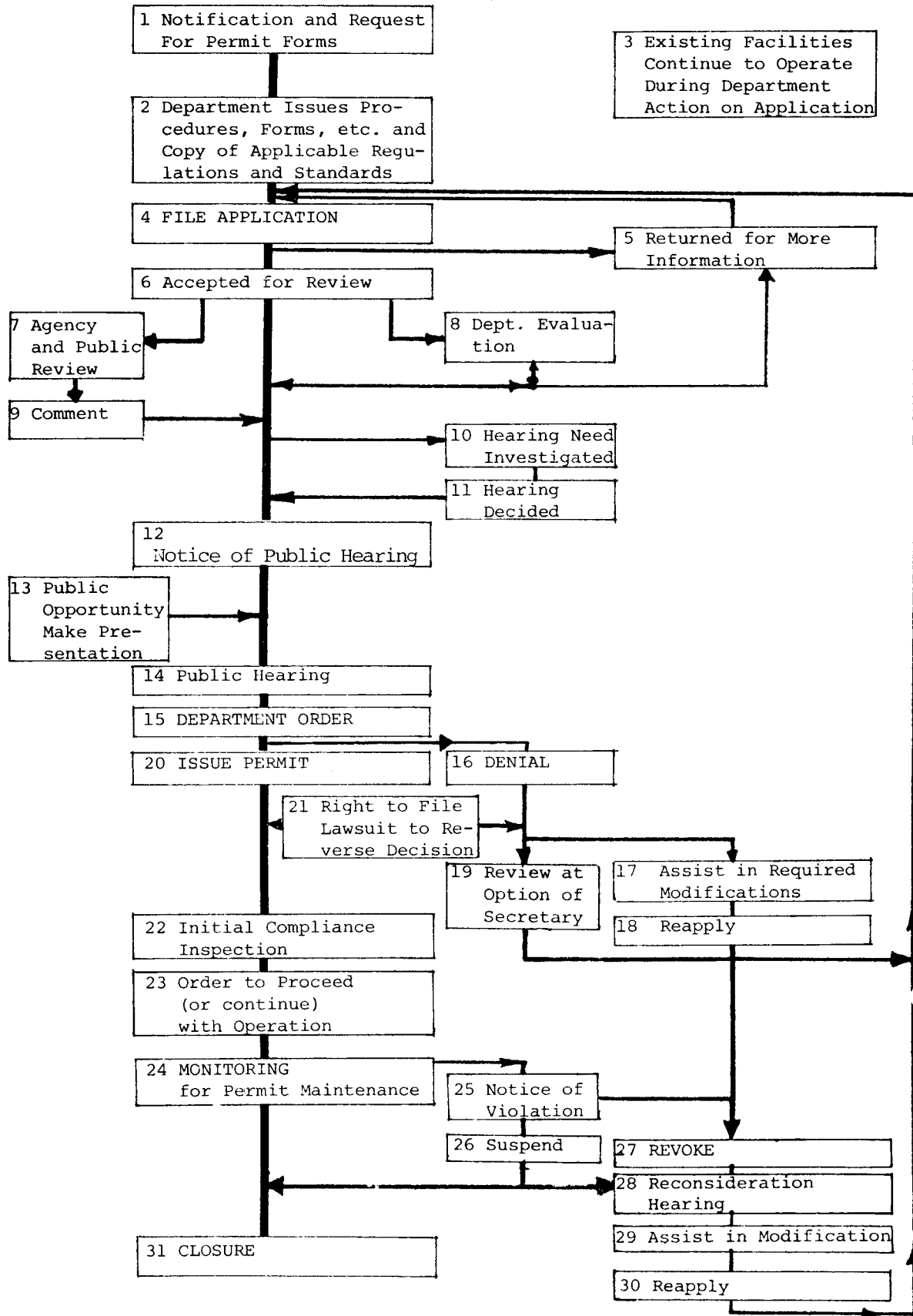
a. A public hearing will be held for a permit for a commercial site.

b. For a permit for all other facilities, the Secretary will determine the necessity for a public hearing based on comments received and other available information.

12. Public Opportunity to Request Hearing—any person, within thirty days of the date of publication of the newspaper advertisement (item 7), may request the Secretary to consider the necessity to call for a public hearing, or if the Secretary has already determined the need for a hearing, he may request the right to testify. The request must be in writing and shall contain the following information:

a. Name and affiliation, if any, of person making request.

Figure 1  
 PERMIT APPLICATION PROCESS



Identification No. \_\_\_\_\_  
(For Department Use)

Figure 2

(TYPICAL)

NOTIFICATION FORM

Name and mailing address of Organization \_\_\_\_\_

\_\_\_\_\_ Zip: \_\_\_\_\_

Location of Operation \_\_\_\_\_

Description of Operation:

- Generator with no on-site disposal
- Generator with on-site disposal
- Transporter
- Disposer  Treat  Store  Dispose

Phone Number ( ) \_\_\_\_\_ - \_\_\_\_\_

Description and estimated quantities of wastes handled:

I have personally examined and am familiar with the information submitted in the attached document, and I hereby certify under penalty of law that this information is true, accurate and complete to the best of my knowledge. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

\_\_\_\_\_  
(Name of Company)

by: \_\_\_\_\_  
Name and title

Date: \_\_\_\_\_

b. Comments in support of or objections to issuance of the permit. If the Secretary determines the objections warrant a public hearing will be scheduled and all concerned parties given written notice in accordance with provisions of the Administrative Procedures Act. If the Secretary determines that the objections presented do not raise genuine and pertinent issues, a written reply containing this determination will be sent to the person requesting the hearing.

13. Public notice of a public hearing, should the Secretary determine a hearing is necessary, will be published in the Official Journal in the locality affected, included in the Department bulletin, and as an ad in the local newspaper no smaller than three inches by five inches. The notice will include the following information.

- a. Name of applicant.
- b. Nature and location of activity, description and estimated quantities of waste handled.
- c. Date and location of public hearing and latest date written comments will be received.
- d. Name and telephone number of person to contact for additional information.

14. The public hearing (if deemed necessary by Secretary) will be conducted in accordance with provisions of the Administrative Procedures Act (R.S. 49:951). All concerned persons may submit pertinent comments in writing or appear and testify.

15. Order Issuing Permit or Denial—the Secretary shall issue the permit or denial after evaluation of all the information submitted and not later than one hundred-fifty calendar days after application is accepted for review.

16. Denial—notice of denial will be sent to the operator by registered mail, return receipt requested. The notice will include a list of specific reasons for denial.

17. Assist in Required Modification—the Secretary will assist the operator in the modification of the permit application or facility design or operation as follows:

- a. Staff discussion with operator, designing engineer, and other principals to discuss reasons for denial.
- b. Reference to “state-of-the-art” procedures and methods which, if incorporated in the operation design, would allow permit reapplication.
- c. Staff evaluation of objectionable features of application.

18. Reapply—the Secretary, based on staff evaluation of changes in application agreed to by operator, may suggest that operator resubmit application.

19. Review at Option of Secretary—the Secretary may require a review of the denial based on new facts presented during the modification meetings. If review is not ordered, the denial stands.

20. Issue Permit—permits will be issued within one hundred-fifty days of the date of acceptance of the permit application for review. The Secretary will assign a permit number corresponding to the notification number for existing facilities (see 5.3.1A2) followed by “P”, and a similar system with prefix “NEW” assigned for new facilities.

21. Right to File Lawsuit to Reverse or Modify Decision—any person has the right to file a lawsuit to reverse the Secretary’s action issuing or denying a permit in accordance with the provisions of Section 4.3 of these regulations. The lawsuit may seek to reverse the entire

action or to modify sections of the action. The legal counsel of the Department of Natural Resources will represent the Secretary in such court proceedings.

B. The following are elements of the permit process concerning monitoring and enforcement procedures.

22. Initial compliance inspections shall be made as follows:

- a. For existing facilities—made as part of permit application evaluation.
- b. For new facilities ready to begin operation—made after “request to perform initial inspection” is submitted by the operator to the Department to determine that new construction was built in conformity with conditions of the permit by:
  - i. Certification from operator and supervising engineer; and,
  - ii. Actual department inspection and evaluation.

23. Order to proceed, or continue, with operation shall be given as follows:

- a. For existing facilities—the Secretary will issue a notice to continue operations, thus certifying a standard permit, or issue a temporary permit for a specified length of time to continue, citing measures which must be taken to satisfy the terms of the permit. Specific target dates will be listed in the temporary permit and a quarterly report of compliance required.
- b. For new facilities—the Secretary will issue a notice permitting operation under a standard permit or a list of modifications required before an order to begin operation will be issued.

24. Monitoring for Compliance—the Department will, from time to time, make inspections of all facilities used to treat, store, and dispose of hazardous wastes. The monitoring will determine compliance with terms of the permit. Based on this monitoring the Secretary has the right to:

- a. Take no action, signifying permit remains in force.
- b. Initiate appropriate enforcement actions pursuant to Section 10.0 of these regulations

25. Notice of violation shall be given and action taken in accordance with the provisions of Section 5.2.8 B 1 and 2.

26. Suspend the Permit—The Secretary may temporarily suspend the operator’s right to accept additional hazardous waste to treat, store, or dispose until violations are corrected. If violations are corrected to the satisfaction of the Secretary, the permit may be renewed.

27. Revoke the Permit—for major infractions of the terms of the permit the Secretary shall revoke the permit and require:

- a. The operator to cease accepting or contracting for hazardous waste to treat, store, or dispose.
- b. The operator to agree to a caretaker management of operations involving wastes which are being treated, stored, or have been disposed on-site. The caretaker management shall be selected by the Secretary from the following:
  - i. Operator’s personnel acting under supervision of the Secretary or his designee.
  - ii. Independent management firm operating under Secretary’s supervision.
  - iii. State operation.
- c. The total cost of the caretaker management shall be borne by the operator, by revenues from operation,

or by calling upon the closure fund set up for this purpose.

d. If the operator does not voluntarily agree to the caretaker management, appropriate legal action shall be taken by the Secretary to institute the management operations to protect the public interest.

e. After exhausting all other remedies the Secretary shall request the Attorney General to secure court authority to close the site, using closure funds for this purpose.

28. Reconsideration Hearing. The Operator may request reconsideration of the suspension or revocation order. The request shall include the following information:

Forum requested:

- a. Staff conference
- b. Public hearing

29. Resubmit. Upon completion of required modification the operator may submit a new or revised application for a permit.

30. Closure. The operator will notify the Secretary in writing of intention to close and seal or abandon any storage or disposal facility stating the date of such proposed closure and certifying that closure method and specifications are in accordance with approved plan included in permit.

#### 5.3.2 Permit Evaluation.

A. To facilitate the evaluation of the initial flow of applications the Secretary may employ qualified firms. The firms will have the following duties:

1. Provide staff assistance to process the initial flow of applications.
2. Assist the Department in training a staff in permit evaluation.

B. The operator will make available to the Department the following assistance, if requested:

1. Services of professional engineers responsible for the design of the facilities and of the operator including:
  - a. Signed certification from designing engineers and/or equipment manufactures that the designs, equipment used, and methods included satisfy the permit requirements and adhere to the standards governing the program.
  - b. Signed certification from the operator that the administration and operation of the facility satisfies the permit requirements and the purposes of the Act.
  - c. Services required to explain the designs and operations to the Department staff.
  - d. Access to the site, if existing, and to pertinent information.
2. Other required assistance.

#### 5.3.3 Permit Application.

A. Application Form—Part I. The application form is illustrated in Figure 3 and is described in the following explanatory notes which are referenced to the form:

1. Date. Date of application.
2. Notification Number. Number assigned by Secretary to your notification.
3. Company Name.
4. Company Address. Note mailing address, parish, and zip code.
5. Name of operator and owner (if different from 3).
6. Address of owner and operator (if different from 4).
7. Contact. Name of individual to be contacted concerning hazardous waste management.
8. Telephone. Office telephone number of contact.

9. Type of Operation.

10. Purpose. Check more than one block if applicable.

11. Status. Ownership status of existing site or land for proposed site.

12. Operation Status.

13. Site Description. Attach site map indicating contours one foot in Coastal Zone, five feet elsewhere), property lines, houses, roads, wells, and other physical features within two miles of site in rural (unzoned) areas and one-half mile in urban (zoned) areas. Schematic plans of facilities required with Part I include location and identification of buildings, wells, lagoons, etc. (Detailed plans are required with Part II).

14. List existing environmental permits for the site, if any. Permit number, date, expiration date, and issuing agency are required.

15. List other company hazardous waste operations in Louisiana (permitted or nonpermitted and current or abandoned).

16. List other states in which hazardous waste operations are or have been conducted.

17. Zoning of site, if applicable.

18. Comments.

19. Signature. By the operator accompanied by his legal authority to sign for the company.

#### 5.3.4 Supplementary Information—Part II.

A. Responses and exhibits must be identified with the following numbering system to facilitate Department evaluation.

1. Site Master Plan.

2. Site layout and facility design.

a. Site plan illustrating property lines; location of: on-site transportation and material movement; storage, treatment, and disposal facilities; utilities; drainage; security facilities; buildings and other physical facilities.

b. When phased construction is planned the plans must indicate each phase and an accompanying schedule of construction as planned.

c. Illustrate all cut-and-fill plans and locate, on-site or offsite, liner and cover material to be used, if applicable.

d. Area topographical map indicating interruption of natural features affecting off-site drainage patterns, transportation, utilities, and location of effluent discharges.

3. Site Geology.

a. The Secretary requires that the following be submitted:

i. Geologist's or licensed engineer's (specializing in geotechnical engineering) certification that the ground and subsurface conditions at the site are acceptable for the planned purposes of the facility.

ii. Submission of following data: surface and subsurface geological features including active faults of area extending at least one thousand feet beyond property line; soil types and conditions to a depth of thirty feet below the lowest elevation of planned disposal cells for burial, landfill, and treatment facility ("Special Waste" facilities excluded) based on test holes at two hundred feet intervals (or greater or less intervals if acceptable to Secretary); logs of test holes and wells, including soil samples for each pertinent stratum analyzed for soil type, porosity, permeability, and other pertinent characteristics;

(TYPICAL FORM)

2. Notification Number \_\_\_\_\_

DEPARTMENT OF NATURAL RESOURCES  
HAZARDOUS WASTE FACILITIES PERMIT APPLICATION  
Part I - General Information

3. Facility Name \_\_\_\_\_

4. Facility Address \_\_\_\_\_

|              |                                   |   |
|--------------|-----------------------------------|---|
|              | <input type="checkbox"/> Operator | <input type="checkbox"/> Owner (if different) |
| 5. Name      |                                   |   |
| 6. Address   |                                   |   |
| 7. Contact   |                                   |   |
| 8. Telephone |                                   |   |

9. Type of Operation:

Standard  Hospital-Medical   
Experimental  Public Treatment Works

10. Purpose: Treat  Store  Dispose

11. Site Status: Owned  Optioned  Leased  Number of Years

12. Operation Status: Existing  Proposed  Modification  Under Construction

13. Site Description: Attach following:

Site Map  
Site and Facility Plan (diagramatic)

14. List existing environmental permits for specific site cited in this application.

15. List Other Company Hazardous Waste Operations (current or abandoned and permitted or unpermitted)

16. List all other states in which hazardous waste operations are conducted.

17. Zoning of Site: Zoned by Whom:

18. Comments:

CERTIFICATION: I have personally examined and am familiar with the information submitted in the attached document, and I hereby certify under penalty of law that this information is true, accurate and complete to the best of my knowledge. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

19. Signed: \_\_\_\_\_

| Calculation of Fee: | 1)<br>Item                | Unit | Unit<br>Cost | Amount<br>\$ |
|---------------------|---------------------------|------|--------------|--------------|
|                     | Site size (acres)         |      | \$ 250       |              |
|                     | Process and plan analysis |      | 1,000        | 1,000        |
|                     | Number of facilities      |      | 500          |              |
|                     | Management/financial      |      |              | 1,000        |

1) See 5.2.10 for explanation

and map and cross section of each stratum to a depth of one thousand feet; map and cross sections indicating the extent of fresh-water sands, and the degree of isolation of these aquifers from waste sources by confining layers of clay, location of water wells, springs, and other drinking, irrigation, or fresh-water uses.

#### 4. Site Hydrology.

a. Map of surface flow through site and map of the potentiometric surface for aquifers within one hundred feet of lowest elevation of disposal cells, or other facilities containing hazardous waste, from one thousand feet upstream to one thousand feet downstream;

b. Map of all water wells, operating or abandoned, within the site and within two thousand feet of the site perimeter and all public water wells within two miles including:

- i. Depth of wells.
- ii. Amount of pumpage.
- iii. Water level depth (annual maximum and minimum).
- iv. Water analysis from water well nearest the disposal site.

c. Travel times in feet/day for normal drainage of each natural surface drainage system within one thousand feet of the property.

d. Flood hazard map of the area (Corps of Engineers or Department of Housing and Urban Development).

e. Climate factors.

- i. Maximum rainfall in twenty-four hours during the last twenty-five years.
- ii. Maximum, minimum, and average temperature/month for past ten years.
- iii. Impact of previous hurricanes on area.
- iv. Comparison of rainfall and evapotranspiration rates.
- v. Prevailing wind direction (provide wind rose).

#### 5. Environmental Factors.

a. List all known historical sites, recreational areas, archaeological sites, wildlife areas, swamps and marshes, habitat for endangered species and other sensitive ecological areas within one thousand feet of the site.

b. Indicate measures planned to protect such areas listed from detrimental impact from the operation of the proposed facility.

#### 6. Geographical Factors.

a. For an area within two miles of the proposed site in a location which is not zoned and one-half mile of the site in a location which is zoned, provide the following information:

- i. Map or aerial photograph showing all buildings identified as residential, commercial, industrial, or public (schools, hospitals, libraries, etc.)
- ii. Population.
- iii. Principal livelihood of residents for facilities located in rural areas.
- iv. Land use.
- v. Road net, with average daily traffic count and route of trucks which will transport to facility.

#### 7. Operations Plan.

a. Classification of wastes to be handled and estimated quantities.

b. Methods and processes utilized.

- i. Facility capacity for each disposal method.
- ii. Detailed description of each process or method.

c. Storage and disposal procedures.

- i. Plans for receipt, checking, processing, segregation of incompatible wastes, and odor control.
- ii. Life of each facility based on projected use.

d. Monitoring Procedures.

- i. Monitoring and recording of incoming wastes.
- ii. Leachate control and monitoring system.
- iii. Security system.
- iv. System for monitoring water and air pollution affecting area outside site.

e. Administrative Procedures.

- i. Hours of operation/day and days/week.
- ii. Security procedures including: entry control, hours manned, lighting, and other procedures to prevent unauthorized entry.
- iii. Procedures planned and equipment available in case of breakdowns, inclement weather, or other abnormal conditions.
- iv. Describe recordkeeping procedures, types of records to be kept, and use of the records by management to control the operation.
- v. List general qualifications of key operating positions.

#### 8. Closure Plans.

a. Detail the elements of the closure plan, including: general description of the plan, including estimated date of proposed closure or schedule of levels of closure.

Administrative and monitoring procedures.

- i. Site security plans.
- ii. Inspection plans and procedures.
- iii. Routine and emergency maintenance plans.
- iv. Monitoring plans, including description of installations and data gathering procedures for leachate control, run-off, gas generation, etc.
- v. Description of recordkeeping procedures, including scope, type, and location kept.

b. Post-closure Plans. Describe potential long-term use of the site, including:

- i. Use suitability.
- ii. Methods planned to insure safety of site after closure.
- iii. Plans for converting the site to its suitable use if such plans have been developed.
- iv. Plans for long-term monitoring.
- v. Plans for closed site ownership and responsibility.

c. Definitive closure plans as required in this section may be omitted from the application for those facilities for which technology is not yet developed provided a plan for a research or demonstration project which will provide needed technology is submitted. The omission and alternate submission must be approved by the Secretary. The Secretary may require a performance bond for the closure system if that system developed by the research specifies new or untested procedures.

#### 9. Financial Responsibility.

- a. Financial structure of operating unit, including:
  - i. Capital structure and principal ownership.
  - ii. Liability coverage: Personal injury (employees and public); Property damage.

10. Special Requirements. The Secretary may require additional provisions for special procedures or processes or for specific information for a supplementary environmental analysis.

5.3.5 Submission Requirements.

A. Standard permit, new or existing operation—Parts I and II.

1. Operators of existing facilities are not required to submit information specified in Section 5.3.4A3, 4, 5, and 6. For these existing facilities the operator shall furnish the following: an aerial view of the impacted area and soil classification around surface impoundments, landfills and burial sites. The Secretary shall require the information specified in Section 5.3.4A3, 4, 5, and 6 involving site geology, site hydrology, environment, or geography where such information can be practicably obtained.

5.4 Manifest System.

5.4.1 Purpose. The manifest is the tracking document of the "cradle-to-the-grave" management system mandated in the Act.

5.4.2 Manifest Forms.

A. A manifest form containing the information required

by these regulations shall be used for all shipments of hazardous waste under this regulation and shall be completed in full by the proper parties.

B. Sample manifest forms will be available upon request from the Department.

5.4.3 Manifest Document Flow (see Figure 4).

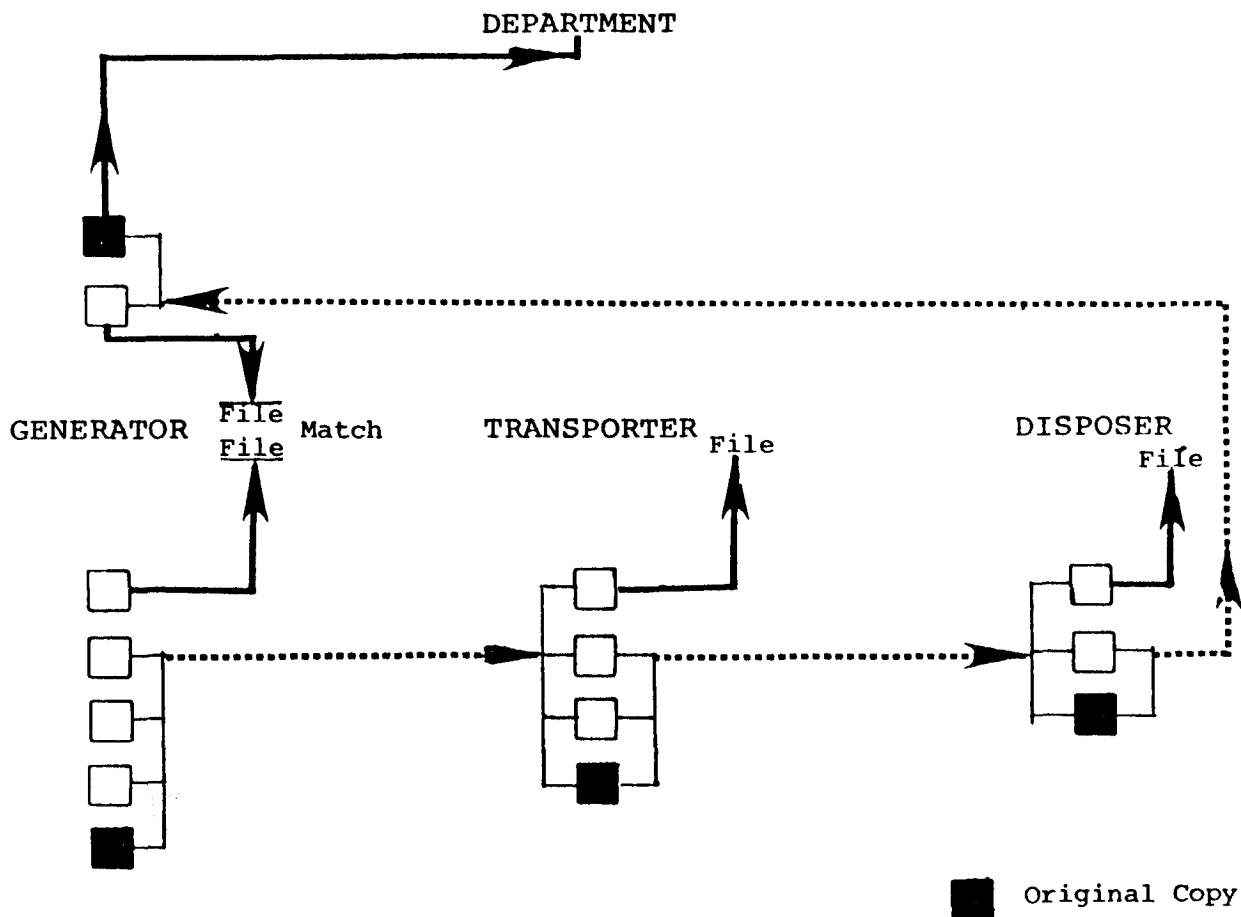
A. Generator initiates the manifest (original and four copies) by filling out his portion and the name and address of the treatment, storage, or disposal facility. After the transporter fills out and signs his portion, the generator retains one copy for his files and the original and three copies accompany the hazardous waste shipment.

B. Transporter secures hazardous waste facility operator's signature upon delivery of waste, retains one copy for his files and gives the original and two copies to the hazardous waste facility operator.

C. Hazardous waste facility operator fills out his portion, retains a copy for his files and mails the original and final copy to the generator no later than the next working day.

D. Generator files the copy and mails the final completed original to the Department no later than seven days after receiving the completed manifest from hazardous waste facility operator.

Figure 4  
MANIFEST SYSTEM  
DOCUMENT FLOW CHART



E. Generator, transporter, and hazardous waste facility operator shall maintain file copies of the manifest for a period of not less than two years for Department inspection.

F. Generator, transporter, and hazardous waste facility operator each shall submit a quarterly report to the Department including manifest numbers and total quantity by type of waste handled. Reports are due no later than fifteen days after the end of each quarter. April 15, July 15, October 15, and January 15.

G. The signing of the manifest by the generator, transporter, or hazardous waste facility operator certifies that to the best of his knowledge his portion of the manifest is accurately and correctly filled out; and the generator further certifies that the material is properly packaged, marked and labeled and is in a proper container for transportation.

H. Except as provided in Section 5.4.5A, and Section 5.4.6C, generator, transporter, and hazardous waste facility operators are required to report to the Department any irregularities between the wastes actually received and the waste described on the manifest, or any other irregularities, within five days.

I. Additional generator responsibilities for rail shipments.

1. If the hazardous waste is transported by rail, the generator will additionally fill out the transporter section, attach the original and two copies to the rail car in an approved fashion, retain one copy for his files, and mail the transporter copy to the appropriate railroad company.

2. The generator will supply the railroad company with the necessary emergency response information and the manifest serial number, which are to be included on the waybill.

#### 5.4.4 Procedures Governing the Generator's Portion of the Manifest System

A. All generators shall prepare a manifest for each shipment of hazardous wastes except as follows:

1. Generators exempt pursuant to provisions of Section 4.2.1E2 and 3.

2. Generators who transport wastes to on-site disposal sites.

3. Generators who transport wastes to the disposal facility by pipeline.

B. Transporters for generators who are exempted under Section 4.2.1E2 and 3 are responsible for originating the manifest and completing the generator's portion thereof.

C. A single manifest may be used for multiple loads of hazardous waste, provided that:

1. All loads of hazardous waste are shipped on the same day from the same location by the same transporter to the same permitted facility.

2. All loads are accompanied by a copy of the manifest and an emergency information card as required by 5.4.4C.

3. The hazardous waste in all loads has the same shipping description and hazard class.

4. The total quantity of each load is specified and is initialed by the generator and transporter.

5. The operator of the transport vehicle for each load is listed on the manifest.

D. Generators must provide a Chem-Card or similar emergency card or a statement concerning the hazardous nature of the material and general guidelines for an emergency situation involving this hazardous waste to accompany the manifest on shipments and loads.

E. In naming a hazardous waste, a generator shall:

1. Use the Department of Transportation (DOT) proper shipping name (identified in 49 CFR 172).

2. If the DOT proper shipping name is "Not Otherwise Specified" (NOS), then the classification system of section 4.1 shall be used after the DOT proper shipping name, "NOS"

F. If the hazardous waste is to be transported out of State, the generator will send a copy of the manifest to the appropriate regulatory agency of the foreign country or state having jurisdiction over the designated facility within one working day of the shipping date. The generator will be responsible for receiving the completed, signed manifest from the out-of-state hazardous waste facility.

G. Generators must get written confirmation of acceptability of the hazardous waste from the operator of the hazardous waste facility before shipping the hazardous waste.

#### 5.4.5 Procedures Governing the Transporter's Portion of the Manifest System.

A. Transporters will pick up and ship only those wastes which are properly prepared for shipment (see Section 6.2), are accompanied by a properly filled out manifest, and appear to be the hazardous waste described on the manifest. If the transporter notices any irregularities or rejects a shipment for any reason he must notify the Department as soon as possible, but no later than the next working day.

B. Transporters who pick up waste from generators exempted by section 4.2.1E2 and 3 or are in a "Special Waste" category are responsible for the generator manifest requirements of this section. Transporter may use a single manifest for shipments containing waste from several generators if all generators are listed, all wastes are accurately described, wastes transported in same shipment are compatible, and labeled as required in this section and Section 5.4.4 D and 6.2.

C. If a shipment of hazardous waste is rejected by the treatment, storage, or disposal facility, the transporter shall return it to the generator, notify the Department of the action immediately and give reasons to his best understanding why the waste was rejected.

#### 5.4.6 Procedures Governing the Hazardous Waste Facility's Portion of the Manifest System.

A. The operator of a hazardous waste facility accepting out-of-state wastes is responsible for all the requirements of this section, including requiring the generator to initiate a manifest.

B. Only those hazardous wastes which are properly manifested and properly shipped are to be accepted by the operator of a hazardous waste facility.

C. If any hazardous waste is rejected by the operator of a hazardous waste facility, the operator of that facility is to notify the Department immediately and give reasons why the waste was rejected.

D. The operator of any treatment, storage, and disposal facility will assume all the responsibilities of a generator established by these regulations for any hazardous waste transported from his facility to another permitted facility, except for waste rejected under Section 5.4.6C.

5.4.7 Disposal of Hazardous Waste Without Manifest. No facility shall accept any hazardous waste delivered from off-site for treatment, storage, or disposal unless such waste was delivered with a properly completed manifest as required by these regulations.

5.4.8 Transportation of Hazardous Waste Without Manifest. The transportation of any hazardous wastes without a manifest shall be deemed a violation of these regulations and the Act.

## 5.5 Surveillance and Monitoring Procedure.

### 5.5.1 Purpose.

A. To insure the protection of life and prevent damage to property and/or environment from improper transportation, treatment, storage, or disposal of hazardous wastes.

B. To work with the generators, transporters, and disposers to achieve the purposes of the Act.

### 5.5.2 Procedures.

A. Primary responsibility for the proper handling of hazardous wastes is assumed by the industry operating under these rules and regulations and cooperating with the Department in meeting the purposes of the Act.

B. Department surveillance and monitoring includes the following:

1. Analysis of manifests and manifest reports to determine that all wastes generated are disposed in permitted sites and that the proper disposal method has been used.

2. Periodic inspections required by the permit maintenance program to insure that facilities treating, storing, and disposing hazardous wastes are operated in conformity with the terms of the permit and these rules and regulations.

3. Spot inspections and sampling by the travelling laboratory and the analytical and inspection team.

4. A systematic program to conduct or to require, investigations and recording of the groundwater, leachate, and air monitoring systems.

5. Response to citizen complaints and suggestions concerning operation of the system.

6. Such other procedures as may be deemed necessary by the Secretary.

C. Violations discovered through such surveillance and monitoring shall be the subject of enforcement actions pursuant to Section 10.3 of these regulations.

## 5.6 Emergency Response System.

5.6.1 Purpose. To provide for control and clean-up of accidental spills and other emergency situations involving hazardous wastes resulting from a violation of a requirement of these regulations or the Act.

### 5.6.2 Program Description.

A. The Department, working with the Department of Public Safety, will establish the following program:

1. Emergency response equipment and teams located in strategic locations.

2. Emergency response plan involving a communication system, cooperation with local police and fire departments, training program based, as a minimum, on the "emergency information card," and an operations plan for each class of emergency situation.

B. The Emergency Response Program will respond to all in-transit accidents and spills, and respond to on-site emergencies when called by the operator or in accordance with provisions of Section 6.4.

C. Program funding shall receive initial seed funds from the Department.

## 5.7 Program Financing.

5.7.1 Self-generated Funds. The Act provides for the hazardous waste program to be financed from self-generated funds.

## 5.7.2 Program Costs.

A. Program management, including administration, issuance of permits, operation of the permit maintenance system, the manifest system, surveillance and monitoring (including necessary laboratory and analytical services), and similar costs.

B. Emergency Response System.

## 5.7.3 Source of Funds.

A. Permit application fees—a one-time charge for permit evaluation. (see Section 5.2.10).

B. Permit Maintenance Fee—an annual fee based on a charge per ton or acre of waste treated, stored, or disposed to provide funds for administration of the program.

## 5.7.4 Calculation of Fees.

A. Administration of the program—fees will be billed at end of year following permit maintenance inspection. Fee is based on cost of program paid by operators who treat, store, or dispose of hazardous waste according to a formula developed as follows:

1. The formula shall be developed no later than three months prior to the end of budget year (FY 79-80).

2. The formula shall be based on a completed data base including: number of permits, volume of wastes handled by class, number, and size of facilities, and other pertinent factors.

3. The formula shall be developed by a committee appointed by the Secretary with members representing the following: Louisiana Chemical Association, Mid-Continent Oil and Gas Association, commercial disposers, and each of the "Special Wastes" categories listed in 4.2.1E3;

4. The formula developed by the committee shall be approved by the Secretary.

5.7.5 Annual Adjustment of Fees. The permit maintenance fee, to provide funds for administration of the program, will be adjusted annually to provide a total equal to the total actual costs incurred for such services.

5.7.6 Public Accounting. The Secretary will submit to each company paying fees into the program a summary of the Department Hazardous Waste Management Program budget. The budget summary will be mailed annually at the time it is submitted for the legislative budget process. A meeting affording those who pay into the program an opportunity to review the budget with Department officials will be scheduled at this time.

5.7.7 Public Reporting. A bulletin will be issued periodically by the Department and mailed to a subscription list including public officials, industries who operate under Department permits, and interested individuals and organizations who request that their name be added to the list. A charge will be made to cover cost of printing and distribution. The bulletin will contain information concerning permit applications, actions by the Secretary on permits, suspension and revocation orders, enforcement actions, and other information of public interest concerning the hazardous waste program.

5.7.8 Recovery of Damages Resulting From a Violation of These Regulations or the Act. In any case where damages occur as a result of a violation of any requirement of the Act or these regulations, the Secretary shall, as a prerequisite to the filing of suit pursuant to R.S. 30:1113B(1), determine the damages sustained by the state. The measure of damages as determined by the Secretary shall be the costs of restoring the affected area to its condition as it existed before the violation occurred in order to remove the hazard to the health and safety of the public or the environment caused by the viola-

tion, plus the costs of all investigations made by the state in connection with the violation. The Secretary shall inform the violator of the amount claimed by the state as damages under this Section. If amicable resolution of the amount of damages claimed by the state is not achieved, the Secretary shall institute court proceedings pursuant to R.S. 30:1113B(1) to recover damages.

#### 5.8 Public Information Service.

5.8.1 A Local Government Liaison and Public Response Section will be established to respond to citizen complaints and suggestions and to insure that all pertinent information concerning hazardous waste operations is adequately and promptly disseminated.

### 6.0 Standards Applicable to Generators of Hazardous Waste

#### 6.1 Recordkeeping and Reporting.

6.1.1 Generators shall comply with the requirements of Section 5.4.

6.1.2 Generators shall notify the Department, according to Section 5.3.1A1, listing the type and estimated quantities of hazardous waste they presently handle and shall notify the Department of any significant changes or of any new hazardous waste they plan to handle.

6.1.3 Generators who generate and dispose, treat, or store their hazardous waste on-site shall submit quarterly reports to the Department, including total quantity, by type, of waste handled and how that waste was disposed, treated, or stored.

#### 6.2 Packaging and Labelling of Shipment of Hazardous Wastes to Off-Site Locations.

6.2.1 Every generator shall mark and label each shipment of hazardous waste in accordance with the Department of Transportation regulations on hazardous materials, 49 CFR 172 and 173.

6.2.2 Every generator shall mark each container of waste with the following:  
"Controlled Waste"—Federal and State Law Prohibits Improper Disposal.

Generator ID code \_\_\_\_\_

Manifest Serial Number \_\_\_\_\_

#### 6.3 Use and Reuse of Containers.

6.3.1 A container may be used for the shipment of hazardous waste only to the extent permitted under Title 49 of the Code of Federal Regulations.

6.3.2 A package marked "NRC" or "STC" according to the specifications requirements in Part 178 of Title 49 of the Code of Federal Regulations may be reused only one time for the shipment of hazardous waste.

#### 6.4 Spills.

A. Any spill of hazardous waste which could possible endanger health or adversely affect the environment off-site shall be reported to the Department within twenty-four hours.

B. If a spill occurs on the site of a generator or storage, treatment, or disposal facility and that spill could possibly endanger the public health or affect the environment off-site, the Department and the Department of Public Safety have the authority to enter the site and investigate the spill. It is the responsibility of the operator to report spills of this nature to the Department of Public Safety as soon as possible.

6.5 Every generator shall comply with the provisions of Section 5.4 et seq. of these regulations relating to the use of a manifest for all shipments of hazardous waste.

6.6 Except as provided in Section 4.2.1E2b, no generator shall treat, store or dispose of any hazardous waste except at a hazardous waste treatment, storage or disposal facility permitted under these regulations.

### 7.0 Standards Applicable to Transporters of Hazardous Wastes.

#### 7.1 General.

7.1.1 No person may offer for transportation, or transport shipments originating or terminating in the State of Louisiana, any quantity of hazardous waste, except in accordance with 7.0.

7.1.2 These rules and regulations do not apply to:

A. Any person or federal or state agency that transports hazardous waste on the site of a hazardous waste operator or permitted hazardous waste management facility, or generator of hazardous waste.

B. Any person who offers for transportation or transports household refuse or household septic tank pumping generated at the site at which the material is offered, if those materials are not offered for transportation with any other hazardous waste.

#### 7.2 Transport Vehicles; Marking.

7.2.1 No person may transport a hazardous waste unless the transport vehicle is marked to display:

A. The name or trademark of the carrier operating the vehicle.

B. The city or place in which the carrier has its principal office or in which the vehicle is customarily based.

C. The name of the person operating the vehicle, if the name of a person other than the operating carrier appears on the vehicle, with the words "operated by" immediately preceding the information required by subparagraphs A and B of this paragraph. Other identifying information may be displayed on the vehicle if it is not inconsistent with the information required by this paragraph.

7.2.2 The marking required by 7.2.1 must:

A. Appear on both sides of the vehicle.

B. Be in letters that contrast sharply in color with the background.

C. Be readily legible during daylight hours from a distance of at least fifty feet while the vehicle is stationary.

D. Be maintained in a manner that retains the legibility required by this paragraph. The marking may be a removable device.

#### 7.3 Placarding.

7.3.1 A transporter may not move a transport vehicle containing hazardous waste which is also a hazardous material unless the vehicle is placarded in accordance with Subpart F of Part 172 of Title 49 of the Code of Federal Regulations or such other regulations as may be prescribed by the Secretary of Public Safety for placarding vehicles carrying hazardous material.

#### 7.4 Place of Delivery.

7.4.1 No person may deliver a hazardous waste to a place other than the permitted facility shown on the manifest. If a hazardous waste cannot be delivered to a permitted facility, the transporter shall comply with 5.4.5C.

#### 7.5 Identification Code.

7.5.1 Each person who transports or intends to transport hazardous wastes in this state shall obtain an identification code from the Department of Public Safety and shall place that number on all shipping papers for hazardous waste to be transported by that person.

#### 7.6 Recordkeeping.

7.6.1 Each transporter shall retain a copy of the manifest as specified in Section 5.4.3, for each transportation of hazardous waste that it makes, for a period of at least two years from either the date of transfer of the hazardous waste to another transporter or delivery of the waste to a permitted facility, as the case may be.

## 7.7 Financial Responsibility.

7.7.1 Each transporter of hazardous wastes shall acquire continuous coverage for all of its transport vehicles regulated by these rules and regulations at a minimum coverage of \$300,000.00 vehicle public liability and \$200,000.00 vehicle property damage.

7.7.2 The financial responsibility required by this section may be established by any one or a combination of the following:

- A. Evidence of liability insurance.
- B. Self-insurance, but the level of self-insurance may not be more than twenty percent of equity.
- C. Other evidence of financial responsibility acceptable to the Secretary of Public Safety.

## 7.8 Shipper Marking Requirements.

7.8.1 Each person who offers any hazardous waste for transportation shall, in addition to complying with any other applicable law or regulation, mark each package of that waste with the following:

“Controlled Waste”—Federal and State Law Prohibits Improper Disposal.

Generator I.D. code \_\_\_\_\_

Manifest Serial Number \_\_\_\_\_

7.8.2 Every generator shall mark and label each shipment of hazardous waste in accordance with the Department of Transportation regulations on hazardous materials, 49 CFR 172 and 173.

## 7.9 Acceptance and Transportation.

7.9.1 A transporter shall not accept a shipment of hazardous waste without a manifest signed by the generator in accordance with Section 5.4.

7.9.2 A transporter shall not transport a shipment of hazardous waste without signing the manifest acknowledging acceptance of the shipment, except as provided in Section 5.4.3I.

7.9.3 If a shipment of hazardous waste is transported by more than one transporter, no subsequent transporter shall accept for transport or transport the shipment without a manifest, or shipping document that contains the information required to be on the manifest.

7.9.4 A transporter shall not transport a shipment of hazardous waste in containers not properly labeled or marked in accordance with Section 7.8.

7.9.5 If the label is lost or detached, the transporter shall replace it, based on the information taken from the manifest for the shipment.

7.9.6 A transporter shall not transport a container that is leaking or appears to be damaged, except to the nearest place where the transport vehicle can be safely positioned without unnecessarily endangering other transport vehicles or the environment. The transporter will then make the repairs necessary to remedy the unsafe condition.

7.9.7 A transporter shall not accept or consolidate hazardous wastes consisting of a material or mixture of materials that is prohibited under Section 173.21 of Title 49 of the Code of Federal Regulations.

## 7.10 Compliance With the Manifest.

7.10.1 Each transporter shall assure that a copy of the manifest accompanies each shipment of hazardous waste at all times during the shipment.

7.10.2 If the hazardous waste shipment is transferred between different modes (air, rail, highway, or water) or between different transporters using the air or highway mode, each transporter shall sign the manifest before transporting the hazardous waste.

7.10.3 Each transporter shall comply with Section 5.4

## 7.11 Delivery to Designated Permitted Facility.

7.11.1 The transporter shall deliver the entire amount of hazardous waste accepted from a generator or other transporter to a permitted facility designated by the generator on the manifest.

7.11.2 If the transporter removes the hazardous waste from a transport vehicle for the purpose of blending, mixing, treating, or storing, that blending, mixing, treating, or storing shall be done at a permitted facility.

7.11.3 If hazardous wastes from different generators or separate wastes from the same generator become mixed after being accepted by the transporter, the transporter shall comply with applicable federal or state generator standards unless the transporter shows that the information on the manifests still identifies the hazardous waste.

7.11.4 The transporter shall, upon delivering the hazardous waste to the designated permitted facility, obtain the signature of an authorized agent of the facility on the manifest or delivery document certifying delivery, or provide equivalent documentation acceptable to the Secretary as may be necessary. For rail shipments documentation of delivery acceptable to the Department may be substituted and shall be provided on demand.

## 7.12 Spills.

7.12.1 Owners of the material spilled are to be considered generators for the purposes of Section 5.0, unless the spill is an emergency situation. In an emergency situation, all generator's reporting and manifest requirements of these rules and regulations are suspended. However, a full report on the spill, including: location of spill, type of material spilled, cause of spill, amount of spilled material, damages incurred, and how the spilled material was cleaned up, transported, and disposed, shall be forwarded to the Department of Public Safety no later than twenty days following the spill.

7.12.2 Whenever a spill of hazardous materials or hazardous waste occurs that requires immediate removal to protect human health or the environment, the transporter shall immediately telephone and furnish the following:

- A. Name of the person reporting the spill and phone number for that person.
- B. Name and address of the transporter.
- C. Name and address of the generator.
- D. Date, time, and place of the spill.
- E. Any pollution of land, air, public water supply, or other water, if known.
- F. Description of the incident.
- G. Classification, name, and amount of hazardous waste, to the extent available.
- H. Extent of personal injuries, if any.

7.12.3 The transporter shall clean up all of the spilled waste or take such action as may be required pursuant to the Emergency Response System prescribed in 5.6 so that the spilled waste no longer presents a hazard to human health or the environment.

## 7.13 Use and Reuse of Containers.

7.13.1 A container may be used for the shipment of hazardous waste only to the extent permitted under Title 49 of the Code of Federal Regulations. A permitted container may be reused only as provided in 7.13.2.

7.13.2 A package marked “NRC” or “STC” according to the specification requirements in Part 178 of Title 49 of the Code of Federal Regulations may be reused only one time for the shipment of hazardous wastes, under the following conditions:

A. The material is packaged, and each package is marked and labelled in accordance with Part 173 of Title 49 of the Code of Federal Regulations.

B. Transportation is performed by highway only.

C. The package is not offered for transportation less than twenty-four hours after it is finally closed for transportation and is inspected for leakage immediately before being offered for transportation.

D. The package is loaded by the shipper and unloaded by the consignee, unless the motor carrier is a private or contract carrier.

#### 7.14 Hazardous Waste That Is Also a Hazardous Material.

7.14.1 If a hazardous waste, as defined in these rules and regulations or regulations of the Environmental Protection Agency, also meets the definition of hazardous material in Section 171.8 and Part 173 of Title 49 of the Code of Federal Regulations, the following regulations of the Department of Transportation in Titles 46 and 49 of the Code of Federal Regulations also apply to its transportation:

A. Title 46, Parts 30-40, Tank Vessels.

B. Title 46, Part 64, Marine Portable Tanks.

C. Title 46, Part 98, Bulk Cargoes.

D. Title 46, Part 148, Solids in Bulk.

E. Title 46, Part 151, Unmanned Barges.

F. Title 49, Part 171, General Information, etc.

G. Title 49, Part 174, Carriage by Rail.

H. Title 49, Part 175, Carriage by Aircraft.

I. Title 49, Part 176, Carriage by Vessel.

J. Title 49, Part 177, Carriage by Public Highway.

K. All other applicable federal laws or regulations.

#### 8.0 Standards Applicable to Facilities which Treat, Store, and/or Dispose of Hazardous Wastes.

##### 8.1 Purpose.

8.1.1 The standards in this section define performance required of facilities which treat, store, or dispose of hazardous wastes.

##### 8.2 Scope of Standards.

8.2.1 All facilities which treat, store, and dispose of hazardous wastes, must be constructed and operated to comply with the standards outlined in these regulations except for facilities for "Special Wastes", which must comply with standards outlined in 9.0.

8.2.2 Except as specifically authorized by the terms and conditions of a permit issued under these rules and regulations, the construction and operation of a facility to treat, store, or dispose of hazardous waste in violation of the standards established by this section shall be a violation of the Act enforceable pursuant to Section 10.0 of these rules and regulations and Section 1113 of Act 334.

##### 8.3 Site Requirements.

###### 8.3.1 Geology.

A. Topographic relief—low, or provide means to guard against slides, slumping, or erosion.

B. Soils—natural stable soils of low permeability over entire area, or other means acceptable to Secretary which provides a barrier to penetration of surface spills or accumulations of hazardous wastes into a subsurface strata with a potential effect on a fresh-water aquifer.

C. Formations—no site shall be located in areas with active faulting conditions or areas with active subsidence unless corrective measures deemed satisfactory by the Secretary are taken.

###### 8.3.2 Geography.

A. Natural hazards—no facility shall be located in an area which historically has been subject to overflow by

action of hurricanes or floods, unless site protection measures acceptable to the Secretary are included in the plan.

B. Areas of critical environmental concern—sites located in, or adjacent to, swamps, marshes, floodplains, estuaries, wildlife hatchery areas, habitat of endangered species, and similar critical environmental areas shall be isolated from such areas by effective barriers which eliminate possible adverse impacts on such areas due to operation of the facility.

C. Transportation—access to sites by surface and water transportation modes shall be by roads and waterways with the capacity to accept the demands created by the facility and designed to avoid, to the extent practical, congestion, sharp turns, obstructions, or other hazards which are conducive to accidents.

D. Services—sites shall have convenient access to required services, including: utilities, medical care, police and fire protection, and similar services, or provide these services internally in a manner acceptable to the Secretary.

##### 8.3.3 Buffer Zone.

A. General requirement—sites shall be shielded from adjoining noncompatible land uses by space, natural separation, or other means acceptable to the Secretary.

B. Minimum requirements—in no event shall the buffer be less than:

1. Sites zoned industrially—sufficient space for security and drainage control facilities.

2. All other locations—two hundred feet between any facility (treatment pond, incinerator, tank, etc.) and property line unless a proper buffer is installed which is acceptable to the Secretary.

##### 8.3.4 Hydrology.

A. General requirement—sites utilized shall be isolated from adjoining land and from subsurface and surface waters naturally, or by created barriers.

B. Drainage—site must have capability to control and contain runoff from a maximum rainfall in twenty-four hours during the last twenty-five years (when maximum rainfall records are not available, the design standard shall be twelve inches below 31° North latitude and nine inches above 31° North latitude) and must have capability to divert adjoining land (outside limits of hazardous waste site or if part of an industrial complex, outside limits of company property) run-off from such a storm from the site (surface and subsurface).

C. Floodplain or hurricane-prone areas—sites located in a floodplain or in an area which historically is subject to hurricanes shall be protected from entry into the site by water from such actions by natural or created barriers certified by professional engineers.

D. Conformity with existing restrictions and permits—sites located in floodways or wetlands under control of the United States Army Corps of Engineers must apply for applicable Corps permits. However, to avoid unnecessarily long licensing periods, the Department may accept and process the application with its final approval dependent upon a similar approval by the United States Army Corps of Engineers. Should the Corps of Engineers refuse to issue a permit, the Department shall remit any unused portion of the application fee. Final Department action on such state permit will be taken after final action by the Corps of Engineers on the required federal permit.

##### 8.3.5 Discharges from the Site.

A. General requirements—all point-source discharges must be controlled and reported as follows:

1. Water—discharges, if any, must be in conformity with effluent limitations established by the Clean Water Act operating under a NPDES permit and reported as required by that permit. The NPDES Permit must be applied for prior to the issuance of a hazardous waste permit.

2. Air—emissions, if any, must be in conformity with air limitations of the Clean Air Act administered by the Louisiana Air Control Commission, operating under an Air Quality Permit as required, and reported as required by that permit. The Louisiana Air Control Commission Permit must be applied for prior to the issuance of a hazardous waste permit.

B. Surface—off-site shipments of any hazardous waste material, containers, packaging, or similar material must be reported on a manifest and must be delivered to a permitted facility.

## 8.4 Sites

### 8.4.1 Security Devices.

A. Perimeter barrier—a constructed barrier shall enclose the entire hazardous waste site and shall have the capability to deny unauthorized ingress or egress, except by willful entry, and prevent entry by domestic livestock.

B. Perimeter clear zone—a clear, lighted path shall be constructed and maintained inside the perimeter barrier to permit patrol by vehicle or foot.

C. Entry—entry facilities required include:

1. Gate at each entry point equipped with secure locking device.

2. Gate house for guard, or electromechanical equipment permitting controlled access.

3. Floodlighting—Each entry shall be well lighted to insure safety and security at night.

D. Emergency response facilities—are required as follows:

1. Communications—an alarm system with controls accessible to each area of potential spill, explosion, or fire; telephone contact to each facility location; two-way radios for key personnel.

2. Fire control—portable fire extinguishers; decontamination facilities; fire control equipment at incinerators, mixing and treatment vats; and other fire-hazard facilities; and fire hydrants (with capacity as required by State Fire Code) located not more than two hundred feet from each fire-hazard facility.

E. Safety control devices.

1. Moving equipment barriers—steel or concrete posts or barriers capable of stopping trucks or other equipment used on the site (at maximum expected speed) shall be installed to protect all hazardous waste above-ground pipelines, valves, or other containers located adjacent to roadways.

2. Personnel barriers—barriers shall be installed at all locations where employees or visitors normally come in contact with ponds, lagoons, incinerators, treatment facilities, and other high-hazard locations.

F. Exterior lighting.

1. All personnel barriers shall be lighted; all vehicle barriers shall have reflectors.

2. Entry gates shall be lighted (see 8.4.1C.).

3. Perimeter barriers shall be lighted (see 8.4.1B.).

G. Any person may petition the Secretary for exemption from these requirements, in whole or in part, through submission of proof that such requirements are not necessary.

### 8.4.2 Receiving and Monitoring Incoming Waste.

A. Each site which treats, stores, or disposes of hazardous wastes generated off-site shall be equipped to accomplish the following:

1. Provide control of all incoming waste to prevent entry of unrecorded and unanalyzed hazardous waste.

2. Measure quantity and type by taking and analyzing a representative sample of waste received to verify the information on the manifest, and to determine proper method to handle and dispose.

B. Each facility within the site which receives hazardous wastes shall be equipped with necessary devices to record quantities, by classification or other identification, of hazardous wastes deposited into the facility system.

C. Each site shall be equipped with a central control and recordkeeping system which tabulates information from "A" and "B" above.

D. On-site transfer systems.

1. All docking, mooring, loading, and unloading facilities for a hazardous waste treatment, storage, or disposal facility are considered part of the facility operation.

2. Hose couplings for truck, barge, or pipeline discharge shall be located within a natural or created containment, with an elevation above surface elevation sufficient to contain a ten minute discharge. Groundwater protection as outlined in 5.4.7B3 shall be provided.

3. Hose couplings on a barge shall be in a containment area on the barge to prevent leakage from entering the waterway.

4. Hoses from a barge to the facility shall be supported by a land-based boom so that the low point of the hose is within the barge or site containment area.

5. Barge moorings shall be in a slack water area outside the navigation channel.

### 8.4.3 Impoundments and Basins.

A. Purpose. To isolate the hazardous waste contents of impoundments and basins from surface and groundwater and, to the extent necessary, to protect public health from the release of hazardous waste into the atmosphere.

B. Requirements.

1. Surface run-off within the site utilized shall be impounded on the site and treated as necessary to comply with NPDES discharge permit requirements.

2. Surface run-off outside the site (limits of hazardous waste facilities or, when part of an industrial complex, the limits of company property used for company operations) shall be diverted and prevented from entry into the site.

3. Ground water protection shall be provided by a barrier along the bottom and sides of the impoundment or basin. The barrier shall have the following characteristics:

a. Permeability: 3' clay at  $1 \times 10^{-7}$  cm/sec or less and so designed and operated as to prevent endangering any fresh-water aquifer by the migration of contaminants from the facility, or an equivalent system acceptable to the Secretary.

b. Resistance to action of elements and contents planned for impoundment or basin for a period of time not less than estimated life of the operation. A bond, or warranty satisfactory to the Secretary, is required for barriers (liners) for which historical performance data is not available.

4. Ground water monitor system is required (see 8.4.10) for the impoundment or basin except those

equipped with an alternative system of monitoring leaks acceptable to the Secretary.

#### 8.4.4 Hazardous Waste Storage Tanks.

A. Purpose. Storage tanks shall be designed, constructed, and operated to prevent contact of the hazardous waste contents with the surrounding environment.

##### B. Requirements.

1. A spill containment area capable of containing the waste in case of a spill shall surround the tank. Capacity of the containment area must equal the capacity of the tank plus precipitation resulting from a twenty-four hour, twenty-five year storm.

2. A groundwater monitoring system shall be installed to measure seepage from the containment area.

3. Hazardous waste storage tanks shall be covered and shall not be vented directly to the atmosphere if the tanks are designed for volatile or malodorous waste or if a possibility exists that they may be used for such wastes.

#### 8.4.5 Hazardous Waste Containers.

A. Containers shall be handled and stored to minimize damage and potential leakage.

B. Spent containers to be disposed of shall be considered hazardous and shall be disposed of or treated by an acceptable waste disposal or treatment method.

C. Spent containers sent to a reclaimer are considered product, thus are not subject to these rules and regulations. Residue from the reclaimer's operations must be disposed in a permitted facility.

#### 8.4.6 Landfarming.

A. Purpose. Landfarms shall be isolated from contact with the public, livestock, or private, irrigation, or livestock water supplies, both surface and underground.

##### B. Requirements.

1. Soils shall be fine-grained with high clay or organic content (e.g., CL, OL, MH, CH and OH under the Unified Soil Classification system).

2. Soils shall maintain a high cation exchange capacity to absorb metallic elements in the waste by natural (pH range of the soil) or artificial means (additives).

3. Landfarms shall be located in a hydrologic section where the historic high water table is at a safe depth below the zone of incorporation, or the water table at the site shall be controlled to a safe depth below this zone.

4. Topography shall provide for drainage to prevent ponding.

5. Land slope shall be controlled to prevent erosion.

6. Run-off shall be collected and contained within the landfarm area in a catchment basin and disposed by irrigation, evaporation, or treatment. Any discharge into the off-site environment shall be governed by a NPDES permit.

7. Groundwater monitoring systems shall be installed.

#### 8.4.7 Landfill and Burial.

A. Purpose. To prevent the contamination of surface and groundwater and the air.

##### B. Requirements.

1. Active portions of landfills and burial sites shall be located within a containment.

2. The containment, natural or created, shall have an elevation above the historic high water level and above the level of maximum capacity plus water from a twenty-four hour, twenty-five year rainfall.

3. Groundwater protection shall be provided by a barrier at the bottom and along the sides of the landfill or

burial site. This permanent barrier shall have the following characteristics:

a. Permeability: 3' clay at  $1 \times 10^{-7}$  cm/sec or less and so designed and operated as to prevent endangering any fresh-water aquifer by the migration of contaminants from the facility, or equivalent system acceptable to Secretary.

b. Resistance to action of elements, content placement (including equipment used to place contents), and chemical action of the contents by means protecting the integrity of the barrier.

4. Groundwater and leachate monitor system are required for the site (see 8.4.10).

5. If noxious gases are generated, (or have the potential to be generated), the Secretary may specifically require a gas collection and control system.

8.4.8 Incinerators. (Note: Incinerators which are part of a product process are not subject to these regulations.)

A. Purpose. To insure necessary combustion and air pollution control to dispose of waste listed in the permit.

##### B. Requirements.

1. The operator shall secure a permit from the Louisiana Air Control Commission.

2. The operator shall provide the Secretary with an acceptable set of performance standards, principally the composition of flue gases and provisions for shutdown, and an operations warranty from the operator certifying that the equipment and operation satisfy the purposes of the permit.

3. Incoming waste monitoring is governed by 8.4.2.

4. Air monitoring system in the exhaust is required which will permit the required Department evaluation.

8.4.9 Chemical, Physical, and Biological Treatment Facilities (wastes only).

##### A. Requirements.

1. Below-surface basins are governed by 8.4.3.

2. Above-ground and mixing and other facilities in basins shall be certified by the designing engineer or manufacturer.

3. Treatment techniques shall include proper chemical analysis or data collecting such as is necessary to determine compatibility with existing treatment facilities, prevention of the release of toxic gases, and provisions for bacterial control and for safety of operating personnel.

4. Pilot, or bench scale, tests or reliable operating data must be obtained for any new or altered hazardous waste prior to introduction into an existing or new treatment sequence.

5. Storage and handling procedures insuring protection of human health and the environment must be observed for all treatment chemicals or reagents.

6. Proper design and operation of all equipment must be maintained to insure minimum spillage, foaming, or misting.

7. Reserve emergency storage must be maintained for critical process areas to insure against operational mishaps and inadvertent volumetric surges.

8. Flow safeguards and cut-offs must be included in the flow system to avoid improper operation, overflow, or treatment defects.

9. Residual sludges or by-products shall be analyzed before disposition within the treatment sequence.

10. Air monitoring system is required (8.4.10).

8.4.10 Monitoring Systems.

A. Groundwater. The groundwater monitoring system shall consist of necessary wells, at least one hydraulically up-gradient, to monitor groundwater moving toward the facility, and all the necessary number of wells down-gradient to monitor groundwater leaving the facility. The wells shall be located to intercept contamination at the earliest possible occurrence. Well locations and completion depths must be selected to assure that probable contaminant flow-paths are monitored. The wells shall be cased and the casings shall be adequately sealed so that contaminants cannot be introduced from the surface or from one aquifer to another within the well bore, and so that only one water bearing sand is sampled per well.

B. Leachate.

1. The leachate monitoring system shall contain a method and device to secure samples and determine leakage at two locations in facilities where the system is required as follows:

a. At the low point inside the barrier (liner) encased in sand, or other porous material, ensuring that leachate from all contents will percolate to the low point. Provision for pumping out all leachate which gathers inside this barrier shall be made.

b. At a low point under the barrier (liner) and encased in a porous layer over a dense (at least 3' of clay at  $1 \times 10^{-7}$  cm/sec) underlayment, or natural soil, to verify the integrity of the liner.

2. The system shall permit sampling from an accessible surface location.

3. An equivalent system acceptable to the Secretary may be installed in existing facilities.

C. Air. Installed, or available portable, air monitoring devices shall be located at all sites involving: incineration, landfill, or treatment facilities. An installed air monitoring system (triangular grid) with continuous recording shall be installed at all commercial sites.

D. Sampling. Samples shall be taken from all required monitoring systems before waste is introduced (for new sites) to provide adequate base-line data. Sampling shall be done quarterly, and complete records shall be maintained at the site for examination by the Department.

#### 8.4.11 Waste Compatibility.

A. Wastes which are incompatible with one another, thereby creating danger to health and potential damage to the environment when mixed, shall not be handled, stored, treated, or disposed together.

B. In landfills and burial sites, incompatible wastes shall be adequately separated to avoid mixing of the wastes during operation or after closure.

C. Treatment and storage facilities containing incompatible wastes shall be sufficiently separated to prevent mixing as a result of a spill, tank failure, or other cause.

#### 8.4.12 Spills.

A. Any spill of hazardous waste which could possibly endanger health or adversely affect the environment off-site shall be reported to the Department within twenty-four hours.

B. If a spill occurs on the site of a generator or storage, treatment, or disposal facility, and if that spill could possibly endanger the public health or affect the environment off-site, the Department and the Department of Public Safety have the authority to enter the site and investigate the spill. It is the responsibility of the operator to report spills of this nature to the Department of Public Safety as soon as possible.

### 8.5 Administration.

8.5.1 Recordkeeping and Reports. The operator shall maintain all records necessary for efficient business operation and which permit preparation and verification of the reports required by the Department as outlined in these rules and regulations.

#### 8.5.2 Security.

A. General requirements—the security system shall insure that site ingress and egress by the public is controlled and that employees are protected from hazards to health resulting from contact with extremely hazardous operations.

B. Perimeter control—the natural or created barrier to site ingress or egress around the entire perimeter of the hazardous waste area as required in 8.4.1 shall be regularly patrolled or monitored. Equipment will be installed, as necessary, to reduce the attractiveness of a site to birds and wildlife.

C. Entry—each entry through the perimeter barrier shall be manned all hours the entry is open by security personnel or by an electronic system (card, code, hand-print, etc. or television monitor) acceptable to the Secretary.

D. Warning signs—a sign “WARNING—Hazardous Waste Area—Unauthorized Personnel Keep Out” shall be posted at each entry and at two hundred foot intervals around the perimeter of the hazardous waste area.

E. Any operator may petition the Secretary for acceptance of equivalent alternative means of meeting these requirements in whole or in part through submission of proof that necessary procedures for the protection of health and property are provided by other means and that representatives of local fire and police departments, if any, are adequately informed of such means.

#### 8.5.3 Emergency Procedures, Contingency Plans, and Training.

A. A contingency plan shall be filed with the Secretary and, after approval, with the local fire and police departments (if any operate in the area), hospitals and emergency response teams operating in the area or subject to call by the operator or the Department.

B. The plan shall be revised each time the facility operations are changed due to expansion, change in type or quantity of waste handled, or other changes which affect the degree or type of possible emergency situation.

C. Operator shall conduct training sessions to be held at regular intervals to inform the plant contingency team, representatives of local fire and police departments, and emergency response teams of plant layout, location of possible hazards, emergency equipment location and operation, the evacuation plan and route, power and stream cut-offs, communications equipment and phone numbers of all required contacts, and other critical information and procedures.

D. During operation of the facilities at least one person, trained in emergency procedures, shall be on duty at all times and in charge of all emergency response measures.

E. Any operator may petition the Secretary for acceptance of equivalent alternatives means of meeting these requirements in whole or in part through submission of proof that necessary procedures for the protection of health and property are provided by other means and that representatives of local fire and police departments, if any, are adequately informed of such means.

#### 8.6 Closure and Post-Closure.

8.6.1 Purposes. To insure protection of the public and ecology against leakage of hazardous wastes to the environ-

ment from closed facilities which formerly stored, treated, and/or disposed of such wastes.

#### 8.6.2 Closure Financial Responsibility.

A. The operator shall submit, with the permit application, the estimated cost of closure, including long-term monitoring devices, and the number of years of estimated operation before closure.

B. The operator shall create a "Closure Fund," to be company owned and managed under the following requirements:

1. Assets of the fund may be invested in Certificates of Deposit, U.S. Government obligations, company bonds or stock approved by the Secretary, surety, fidelity, or performance bonds or other investments approved by the Secretary.

2. Payments into the fund will be made on the date operation is begun and annually on the anniversary date of beginning operation.

3. Payments are in the amount of the total estimated cost of closure divided by the estimated number of years of operation before closure. Earned interest may be included as part of the next annual payment.

4. Expenditures from the fund cannot be made without approval of the Secretary. Such approval will be given at time of closure according to approved schedules as outlined in Section 8.6.3 and 8.6.4.

5. An annual report of the closure fund prepared by a certified public accountant shall be submitted to the Secretary.

#### 8.6.3 Notification of Intention to Close a Facility.

A. At least ninety days prior to closure the operator must notify the Secretary of intention to close and supply the following information:

1. Date of planned closure.

2. Changes, if any, requested in the closure plan submitted with the permit application to take advantage of new technology, unforeseen situation, and other requests which improve the safety of the closed facility.

3. Closure schedule and estimated costs of each phase of the closure plan.

4. Request for release of closure funds in amounts and times as required by the closure schedules.

#### 8.6.4 Closure Procedures.

A. If closure methods are unchanged from the plan approved with the permit the Secretary will acknowledge receipt of the notification to close and prepare appropriate documents which will be executed upon completion and acceptance of each phase of the closure plan so that funds can be released.

B. If request is made to change closure plan:

1. The operator will submit revisions to the plan, supported by necessary scientific and engineering data to permit evaluation by Department.

2. Procedures established in permit process (see 5.3) will be followed in evaluating and approving the requested changes.

#### 8.6.5 Closure Requirements.

A. All movable equipment, containers, and facilities shall be decontaminated, and inspected and approved by the Department prior to removal from the site, or disposed on the site following approved procedures.

B. The operator shall prepare and submit to the Secretary a certified plat, indicating locations of all burial sites and facilities, and contents of those sites. This plat will be filed with the land records of the parish in which the facility is located.

C. All post-closure equipment and facilities outlined in the plan shall be installed.

D. The operator and a registered professional engineer who supervised the closure shall submit to the Secretary certification that the closure has been accomplished in accordance with the approved plan.

#### 8.6.6 Post-Closure Procedures.

A. Any proposed transfer of ownership of the property shall be reported to the Secretary at least sixty days prior to execution of such sale.

B. The Secretary must approve any new owner. Criteria for approval includes: agreement to land use restrictions necessary to protect public health and financial responsibility covering liability due to change in land use.

C. The Secretary will conduct an annual evaluation of the site for a period to be not less than twenty years from date of closure.

#### 8.6.7 Financial Considerations.

A. The Secretary will execute approval of expenditure of "Closure Fund" assets for each phase of the closure schedule upon completion and acceptance of required work.

B. Upon completion of all the work elements, including installation of required monitoring and post-closure safety devices, the Secretary will execute an approval to terminate the "Closure Fund" or authorize the cancellation of the surety or performance bond.

#### 8.7 Financial Responsibility.

##### 8.7.1 Required Financial Responsibility During Operation.

A. An operator of hazardous waste treatment, storage, or disposal facilities shall file, as part of his application for a permit, proof of the financial responsibility required by this Section.

B. The financial responsibility required shall be maintained at all times during the operation of any hazardous waste treatment, storage, or disposal facility and shall be annually reported to the Secretary.

C. Requirements are:

1. For sudden and accidental occurrences shall be in the amount of five million dollars per occurrence, exclusive of legal defense costs, for claims arising out of injury to persons or property from the release or escape of hazardous waste into the environment from the facility.

2. For nonsudden and accidental occurrences shall be in the amount of five million dollars per occurrence with a ten million dollar annual aggregate for claims arising out of injury to persons or property from the gradual or steady state release or escape of hazardous waste to the environment from such facility.

D. The financial responsibility required by this section may be established by any one or a combination of the following:

1. Evidence of liability insurance.

2. Self insurance, provided that the level of self insurance shall not exceed twenty percent of equity.

3. Other evidence of equivalent financial responsibility acceptable to the Secretary.

#### 9.0 Standards Applicable to Facilities Treating, Storing and/or Disposing of Special Waste.

##### 9.1 Scope.

9.1.1 Facilities which store, treat, or dispose of "Special Waste," as listed in 4.2.1E, are exempt from Section 8.0 "Standards Applicable to Facilities which Treat, Store, and/or Dispose of Hazardous Waste" and are subject to standards outlined in 9.2 to 9.10 inclusive, where referenced.

##### 9.2 Site Requirements.

- 9.2.1 Geology—8.3.1 shall govern.
- 9.2.2 Geography.
- A. Natural Hazards—8.3.2A shall govern.
  - B. Areas of environmental concern—8.3.2B shall govern.
  - C. Transportation—8.3.2C shall govern.
  - D. Services—8.3.2D is not applicable.
- 9.2.3 Buffer Zone.
- A. General requirements—8.3.3A shall govern.
  - B. Minimum requirements—8.3.3B is not applicable.
- 9.2.4 Hydrology—All sections of 8.3.4 shall govern.
- 9.2.5 Discharge from Site—8.3.5 shall govern.
- 9.2.6 Security Devices.
- A. Perimeter barrier:
    1. Spent bauxite and industrial wastewater—8.4.1A shall govern.
    2. Other “Special Waste”—a minimum physical separation from site at points of contact with roads or paths shall be provided.
  - B. Perimeter clear zone:
    1. Industrial wastewater—8.4.1B shall govern.
    2. Other “Special Waste”—not applicable.
    3. Posting—perimeter of site shall have “POSTED” signs at intervals not greater than three hundred feet.
  - C. Entry.
    1. Industrial wastewater—8.4.1C shall govern.
    2. Spent bauxite—gate 8.4.1C1 shall govern; other Sections of 8.4.1C not applicable.
    3. Other “Special Wastes”—8.4.1C not applicable.
  - D. Emergency response—8.4.1D not applicable.
  - E. Safety control devices 8.4.1E—not applicable.
  - F. Exterior lighting 8.4.1F—not applicable.
- 9.3 Facility Standards—Sections 8.4.2—8.4.9 Inclusive.
- A. Industrial wastewater.
    1. All sections governing facilities included in the complex shall govern.
    2. Adequacy of existing facilities to meet required standards will be based on an evaluation by the Secretary of the following factors:
      - a. Applicability of specific standard to the existing facility in question.
      - b. Potential of existing facility to endanger human health or the environment determined by monitoring or other applicable tests.
      - c. Barrier integrity will be determined by groundwater monitoring tests or surface manifestation of environmental damage or a threat to public health.
  - B. Other “Special Wastes”—not applicable.
- 9.4 Monitoring.
- 9.4.1 Groundwater monitoring wells (8.4.10A and D) are required for all “Special Waste” sites.
- 9.5 Run-off Containment.
- 9.5.1 A dike-ditch system or equivalent to contain run-off shall be installed around the site perimeter (limits of hazardous waste facilities or, if part of industrial complex, limits of company property utilized for company operations).
- 9.5.2 Run-off shall be returned to disposal area or treated and discharged under provisions of an NPDES permit.
- 9.6 Administration.
- 9.6.1 Recordkeeping—records adequate to complete the required annual report to Secretary concerning quantity and type of wastes disposed shall be maintained.
- 9.6.2 Other provisions of 8.5 are not applicable.
- 9.7 Closure and Post-Closure.
- 9.7.1 Closure Financial Plan—8.6.2 shall govern.
- 9.7.2 Notification to Close—8.6.3 shall govern.

- 9.7.3 Closure Procedures—8.6.4 shall govern.
- 9.7.4 Closure Requirements.
- A. Closure Requirements for wastewater facilities—8.6.5 shall govern.
  - B. Closure Requirements for Spent Bauxite—The site shall be covered in a manner approximating original site conditions or rendered harmless in accordance with the approved closure plan.
  - C. Closure Requirements for product gypsum, coal residue, or cement kiln dust.
    1. Stacks shall be stabilized against wind and water erosion and contained in a manner which will prevent excessive collection of water.
    2. Surface shall be covered in accordance with requirements of the approved closure plan.
- 9.8 Post Closure Procedures—Section 8.6.6 shall govern.
- 9.9 Financial Consideration—Section 8.6.7 shall govern.
- 9.10 Financial Responsibility—Section 8.7 shall govern.
- 10.0 Enforcement.
- 10.1 Failure to comply with any of the provisions of these regulations or of the terms and conditions of any permit granted or order issued hereunder constitutes a violation of the Act.
- 10.2 Reports of Violations; Investigations.
- 10.2.1 Upon the receipt of any information concerning a violation of the requirements of the Act or these regulations, the Secretary shall cause an investigation to be conducted into the alleged violation within seven days.
- 10.2.2 All facts concerning any violation developed in such an investigation shall be fully documented in a report of investigation and presented to the Secretary within seven days of completion of the investigation. A copy of this report shall be furnished to the Louisiana Department of Justice for use in any civil or criminal proceedings under the Act.
- 10.3 Upon receipt of any report of investigation which substantiates a violation of the requirements of the Act or these regulations, the Secretary shall commence enforcement proceedings under the Act.
- 10.4 All civil action required in the enforcement process including, but not limited to, suits for a temporary or permanent injunction and suits for damages resulting from a violation of the Act or these regulations shall be brought by the Louisiana Department of Justice, upon the direction of the Secretary.
- 10.5 Notwithstanding anything to the contrary herein provided, whenever the Secretary determines that a violation of the Act or these regulations is occurring or is about to occur, which violation is of such magnitude as to require immediate action to prevent irreparable damage to the public health or environment, the Secretary may issue an emergency cease and desist order pursuant to the provisions of the Act.
- 10.6 In addition to the civil liabilities enumerated in these regulations any person who knowingly violates any provision of the Act, or any written order or regulation issued thereunder, shall upon conviction be subject to the criminal penalties provided in the Act.

#### **Appendix A**

Category I (see Sec. 4.1.1A) Hazardous Wastes: Chemicals and Process Streams Whose Hazardous Nature Has Been Prescribed by Prior Determination.

A. Designated chemical hazardous wastes (irrespective of source):

1. Waste chlorinated hydrocarbons from degreasing operations.
2. Waste nonhalogenated solvents (such as methanol, acetone, isopropyl alcohol, polyvinyl alcohol, stoddard solvent, methyl ethyl ketone) and solvent sludges from cleaning, compounding, milling, and other processes.



| SIC Code | Process Description  | SIC Code | Process Description  |
|----------|--|----------|--|
| 2869     | Still bottoms from aniline production  | 2951     | Wastewater treatment sludges from paint production   |
| 2869     | Aqueous effluent from scrubbing of spent acid in nitrobenzene production   | 2892     | Wastewater treatment sludges from explosives, propellants and initiating compounds manufacture.                          |
| 2869     | Bottom stream from quench column in acrylonitrile production   | 2892     | Wastes recovered from acid vapor scrubber stream in the production of RDX/HMX  |
| 2869     | Bottom stream from wastewater stripper in production of acrylonitrile  | 2892     | Catch basin materials in RDX/HMX production  |
| 2869     | Still bottoms from final purification of acrylonitrile   | 2892     | Spent carbon columns used in the treatment of wastewater—LAP operations  |
| 2869     | Solid waste discharge from ion exchange column in production of acrylonitrile  | 2892     | Wastewater treatment sludges from production of initiating compounds   |
| 2869     | Waste stream from purification of HCN in production of acrylonitrile   | 2892     | Red water and pink water from TNT production   |
| 2869     | Waste stream (column bottoms) from acetonitrile purification in production of acrylonitrile  | 3111     | Leather tanning and finishing: Wastewater treatment sludge from chrome tannery, beamhouse/tanhouse                       |
| 2869     | Wastewater treatment sludges from the production of dieldrin, chlordane, toxaphene, disulfoton, malathion, phorate, carbaryl, pentadiene, trifluralin, alachlor, methyl parathion, vernoloate, methomyl, carbofuran, captan, creosote, dithacarbamates, pentachlorophenol, bromacil, diuron, p-chlorobenzene and chloroxuron | 3111     | Leather tanning and finishing: Wastewater treatment screenings from sheepskin tannery, split tannery and retan/finishers |
| 2869     | Wastewater from oxidation of aldrin solution in production of dieldrin   | 3111     | Trimmings and shavings from leather tanning and finishing chrome, split, beam/tanhouse and retan/finishers               |
| 2869     | Wastewater from extraction of dieldrin solution in production of dieldrin  | 3111     | Wastewater treatment sludge from dehairing   |
| 2869     | Wastewater and scrub water from chlorination of cyclopentadiene in production of chlordane   | 3312     | Coking: Decanter tank tar  |
| 2869     | Filter solids from filtration of hexachlorocyclopentadiene in production of chlordane  |          | :Decanter tank pitch sludge  |
| 2869     | Filter cake from filtration of toxaphene solution in production of toxaphene   | 3312     | :Oleum wash waste  |
| 2869     | Unrecovered triester from production of disulfoton.  |          | :Caustic neutralization waste  |
| 2869     | Still bottoms from toluene reclamation distillation in production of disulfoton  | 3312     | :Ammonia still lime sludge   |
| 2869     | Filter cakes from filtration of dimethylphosphorothion and DMTA in production of malathion   | 3312     | Iron Making: Ferromanganese blast furnace dust   |
| 2869     | Liquid wastes from washing and stripping in production of malathion.   |          | :Ferromanganese blast furnace sludge   |
| 2869     | Liquid and solid wastes from the washing, stripping and filtering of phorate in phorate production   | 3312     | :Electric furnace dust and sludge  |
| 2869     | Filter cake from the filtration of diethylphosphorodithoric acid in the production of phorate  | 3312     | Steel Finishing: Alkaline cleaning waste   |
| 2869     | Heavy ends and distillation residues from production of carbaryl   |          | :Waste pickle liquor   |
| 2869     | 2, 6-D waste by-product from production of 2, 4-D  | 3331     | :Cyanide-bearing wastes from electrolytic coating  |
| 2869     | Heavy ends or distillation residues from distillation of tetrachlorobenzene in production of 2, 4, 5-T   |          | :Chromate and dichromate wastes from chemical treatment  |
| 2869     | Scrubber and filter wastes from production of atrazine   |          | :Descaling acid  |
| 2869     | Filter cake from production of pyrethrins  | 3331     | Primary copper smelting and refining electric furnace slag, converter dust, acid plant sludge, and reverberatory dust    |
| 2869     | Filter cake from production of diazinon  | 3331     | Primary lead lagoon dredging from smelter  |
| 2869     | By-product salts in production of MSMA   | 3332     | Primary lead blast furnace dust  |
| 2869     | By-product salts in production of cacodylic acid.  | 3333     | Zinc acid plant blowdown lime treatment: gypsum cake (acid cooling tower and neutral cooling tower)                      |
| 2869     | Tars from manufacture of bicycloheptadiene and cyclopentadiene.  | 3333     | Zinc production: oxide furnace residue and acid plant sludge   |
| 2890     | Sludges, wastes from tub washer (Ink Formulation)  | 3333     | Zinc anode sludge  |
| 2911     | Petroleum refining, high octane production neutralization HF alkylation sludge   | 3339     | Primary antimony-electrolytic sludge   |
| 2911     | API separator sludge   | 3339     | Primary tungsten-digestion residues  |
| 2911     | Petroleum refining DAF sludge  | 3339     | Primary lead sinter dust scrubbing sludge  |
| 2911     | Petroleum refining kerosene filter cakes   | 3339     | Ferromanganese emissions control: baghouse dusts and scrubwater solids   |
| 2911     | Petroleum refining lube oil filtration clays   | 3339     | Ferrochrome silicon furnace emission control dust or sludge  |
| 2911     | Petroleum refining—slop oil emulsion solids  | 3339     | Ferrochrome emissions control: furnace baghouse dust, and ESP dust   |
| 2911     | Petroleum refining exchange bundle cleaning solvent  | 3339     | Primary antimony-pyrometallurgical blast furnace slag  |
|          |  | 3341     | Secondary lead, scrubber sludge from SO <sub>2</sub> emission control, soft lead production                              |
|          |  | 3341     | Secondary lead-white metal production furnace dust   |
|          |  | 3341     | Secondary copper-pyrometallurgical, blast furnace slag.  |
|          |  | 3341     | Secondary copper-electrolytic refining wastewater treatment sludge   |

| SIC Code | Process Description  |
|----------|--|
| 3341     | Secondary aluminum gross smelting—high salt slag plant residue                               |
| 3341     | Zinc—cadmium metal reclamation, cadmium plant residue.                                       |
| 3691     | Lead acid storage battery production wastewater treatment sludges                            |
| 3691     | Lead acid storage battery production clean-up wastes from cathode and anode paste production |
| 3691     | Nickel cadmium battery production wastewater treatment sludges                               |
| 3691     | Cadmium silver oxide battery production wastewater treatment sludge                          |
| 3691     | Mercury cadmium battery production wastewater treatment sludges                              |
| 3692     | Magnesium carbon battery production chromic acid wastewater treatment sludges                |

Category II Hazardous Wastes: "Special Wastes" as listed in 4.21E.

Spent bauxite (red mud) resulting from production of alumina.

By-product gypsum and other wastes resulting from the production of phosphoric acid and phosphate fertilizers.

Coal residue (ash and SO<sub>2</sub> scrubber sludge) after use as a boiler fuel.

Cement kiln dust.

Industrial waste water identified as hazardous in 4.1.1 in an NPDES treatment train when that train includes ponds, impoundments or similar facilities.

Category III (see Sec. 4.1.1C) Hazardous Wastes: Wastes Designated as Hazardous by Class Analytical Procedures—With Related Level of Hazard Ratings.

Four hazard classes are defined for rating wastes not otherwise characterized: ignitability, corrosivity, reactivity, and toxicity. For each a level of hazard rating table comparable to that presented by the Material Safety Data Sheet (MSDS) is also presented as a guide to level of care requirements to be normally expected. The state hazardous waste management rules and regulations presented in this report will apply to those materials carrying a hazard rating of 2 or higher in any class.

A. Ignitability. A waste will be considered a moderate ignitable hazard (hazard level 2 in Table A-1) if a representative sample of the waste:

1. Is a liquid and has a flash point less than 60°C (140°F) determined the methods cited in American Society for Testing Materials (ASTM) D-93-72 or ASTM 3278-73;
2. Is not a liquid and is liable to cause fires through friction, absorption of moisture, spontaneous chemical changes, or retained heat from manufacturing or processing;
3. Is an ignitable compressed gas as defined in 49 CFR 173.300(b); or
4. Is an oxidizer as defined in 49 CFR 173.51.

**Table A-1  
Ignitability**

| Hazard Level | Description   |
|--------------|---|
| 0            | None, material does not burn  |
| 1            | Minor, material must be preheated to burn   |
| 2            | Moderate, some heating is required for: ignition and volatile vapors are released (Flash point of 140°) |
| 3            | Severe, material ignites at normal temperature  |
| 4            | Extreme, very flammable substance that readily forms explosive mixtures                                 |

B. Corrosivity. A waste is a moderately corrosive hazardous waste if a representative sample of the waste:

1. Is aqueous and has a pH less than or equal to 2.5 or greater than or equal to 12.5.
2. Corrodes steel (SAE 1020) at a rate greater than 0.250 inch per year at a test temperature of 130°F.

Table A-2 provides a minimum "level" of hazard rating scale for corrosivity.

**Table A-2  
Corrosivity**

| Hazard Level | Description                         |
|--------------|-------------------------------------|
| 0            | None                                |
| 1            | Minor                               |
| 2            | Moderate (as described in protocol) |
| 3            | Severe                              |

C. Reactivity. A waste is a reactive waste of moderate hazard if a representative sample of the waste:

1. Is normally unstable and readily undergoes violent chemical change without detonating; reacts violently with water, forms potentially explosive mixtures with water, or generates toxic gases, vapors, or fumes when mixed with water; or is a cyanide or sulfide bearing waste which can generate dangerous quantities of toxic gases, vapors, or fumes when exposed to mild acidic or basic conditions.

2. Is capable of detonation or explosive reaction but requires a strong initiating source or which must be heated under confinement before initiation can take place, or which reacts explosively with water.

3. Is readily capable of detonation or of explosive decomposition or reaction at normal temperatures and pressures.

4. Is a forbidden explosive as defined in 49 CFR 173.51, a Class A explosive as defined in 49 CFR 173.53, or a Class B explosive as defined in 49 CFR 173.58.

Note: Such waste includes pyrophoric substances, explosives, autopolymerizable material and oxidizing agents. If it is not apparent whether a waste is a hazardous waste using this description, then the methods cited below or equivalent methods can be used to determine if the waste is hazardous waste.

**Table A-3  
Reactivity**

| Hazard Level | Description  |
|--------------|--|
| 0            | None, stable when exposed to fire  |
| 1            | Minor, unstable at high temperatures or pressures and may react as noted above with water or mild acids or bases.        |
| 2            | Moderate, unstable but does not explode; may form explosive mixtures or noxious fumes with water or mild acids or bases. |
| 3            | Severe, explodes if heated or water added or forms toxic fumes with water, mild acids, or bases.                         |
| 4            | Extreme, readily explosive under normal conditions or forms highly toxic fumes with water, mild acids or bases.          |

D. Toxicity. The following chemical species shall be considered to offer at least a potential toxicity hazard requiring management:

1. Designated heavy metals in elemental form, in salts, or organic compounds: in particular, antimony, arsenic, beryl-

lithium, boron, cadmium, copper, chromium, lead, mercury, nickel, selenium, silver and thallium. These compounds constitute a risk of metabolic harm to higher animal life and when released in concentrations or quantities above a designated threshold must be carefully managed.

2. Toxic anions such as arsenates, arsenites, chromates, cyanides, fluoraluminates, fluorides, fluorsilicates, phosphides.

3. Extremely dangerous poisons including cyanogen, phosgene, hydrogen sulfide along with the less dangerous poisons such as acetone, cyanohydrin and irritating substances such as brombenzyl cyanide and chloracetophenone.

4. Commercial poisons including fungicides and pesticides including DDT, aldrin, chlordane, endrin and toxaphene.

The threshold of moderate hazard for these and other uncharacterized toxic chemicals (acute and chronic) shall be taken as equivalent to the Toxic Hazard rating code of 2 listed in "Dangerous Properties of Industrial Materials," Fourth Edition, N. Irving Sax, van Nostrand-Reinhold (New York) publishers (1975). When a suspect substance is not listed in Sax, the Threshold Limit Value (TLV) listed in the "Documentation of Threshold Values," 3rd Edition, 1971, American Conference of Governmental Industrial Hygienists, Cincinnati, Ohio, or the presence of a compound of LD-50 in rats of 800 mg/kg or less (U.S. Department of Health, Education, and Welfare, National Institute for Occupational Safety and Health, "Registry of Toxic Effects of Chemical Substances," June 1976, Rockville, Maryland) shall be considered a basis for inclusion in the Hazardous Waste Management System subject to review as provided in Section 4.2.2 of these regulations.

**Table A-4  
Toxicity: Acute and Chronic**

| Hazard Level | Description   |
|--------------|---|
| 0            | None  |
| 1            | Minor   |
| 2            | Moderate (indicated test); can cause temporary incapacitation or injury |
| 3            | Severe, short exposure may cause serious injury                         |
| 4            | Extreme, short exposure may cause death                                 |

William C. Huls, Secretary  
Department of Natural Resources

**RULES**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

The Louisiana Wildlife and Fisheries Commission at its regular public meeting held in New Orleans, Louisiana on June 26, 1979, adopted, via resolution of the Wildlife and Fisheries Commission, rules and regulations concerning the 1979-80 hunting season for resident game birds and animals, and rules and regulations concerning hunting on wildlife management areas. The Department of the State Register has determined that publication of these rules would be unduly cumbersome and has exercised its privilege to omit them from the Louisiana Register, in accordance with R.S. 49:954.1C.

These rules are available for public inspection at Wildlife and Fisheries headquarters, 400 Royal Street, New Orleans. They will

be published in pamphlet form and made available, free, throughout the state on or about September 1, 1979.

**Trapping Season**

Be it resolved that the Louisiana Wildlife and Fisheries Commission does hereby set the trapping season for nutria, beaver, mink, muskrat, otter, raccoon, opossum, skunk, bobcat, and fox for the 1979-80 season, from December 1, 1979, through February 28, 1980.

Be it further resolved that if additional time is required to prevent the overpopulation of nutria and muskrat in some areas, recommendations for an extended season be presented to the Commission's January, 1980 meeting.

**Migratory Game Birds**

Whereas, the U.S. Fish and Wildlife Service has announced its regulations for the hunting of certain migratory game birds including doves, snipe, woodcock, rails, gallinules, and teal, and

Whereas, the Louisiana Wildlife and Fisheries Commission must establish season dates for the hunting of these species within the frameworks, bag limits, shooting hours, and number of hunting days promulgated by the U.S. Fish and Wildlife Service as announced in the Federal Register, now

Therefore, be it resolved, that the Louisiana Wildlife and Fisheries Commission does hereby establish the following dates for the migratory game birds listed below:

|                       | Dates             | Days | Daily Bag Limit | Possession Limit |
|-----------------------|-------------------|------|-----------------|------------------|
| Doves<br>(North Zone) | Sept. 1-16        | 16   | 12              | 24               |
|                       | Oct. 13-Nov. 11   | 30   | 12              | 24               |
|                       | Dec. 15-Jan. 7    | 24   | 12              | 24               |
| Doves<br>(South Zone) | Oct. 13-Nov. 25   | 44   | 12              | 24               |
|                       | Dec. 15-Jan. 9    | 26   | 12              | 24               |
| Teal                  | Sept. 22-Sept. 30 | 9    | 4               | 8                |
| Rails                 | Sept. 22-Nov. 30  | 70   | 15              | 30               |
| Gallinules            | Sept. 22-Nov. 30  | 70   | 15              | 30               |
| Snipe                 | Nov. 3-Feb. 17    | 107  | 8               | 16               |
| Woodcock              | Dec. 8-Feb. 10    | 65   | 5               | 10               |

Shooting hours: Teal, sunrise to sunset; doves, noon to sunset; others, one-half hour before sunrise to sunset.

Now therefore be it resolved that the Louisiana Wildlife and Fisheries Commission does hereby also place into effect all other hunting regulations related to the taking of these species, including shooting hours and bag limits as promulgated by the U.S. Fish and Wildlife Service.

J. Burton Angelle, Secretary  
Department of Wildlife and Fisheries

**Notices of Intent**

**NOTICE OF INTENT**

**Department of Agriculture  
Office of Agricultural and Environmental Sciences**

It has been determined that two serious and destructive diseases of sugarcane, Sugarcane Rust, (*Puccinia melanocephala* Syd.) and Sugarcane Smut, (*Ustilago scitaminea* Syd.) are now present in the continental limits of the United States. These diseases are not known to occur in Louisiana and are capable of causing severe

losses to the sugarcane industry in the state if they become established.

In order to prevent the introduction and spread within the state and to eradicate these diseases if they are introduced, the Louisiana Department of Agriculture, under authority of Section 1732 of Part II of Chapter 12 of Title 3 of the Revised Statutes of 1950, proposes to adopt as permanent rules the following Quarantine and Regulations declaring pests, agent or inspector, inspection, control and eradication authority, quarantine area, regulated products, conditions governing shipment control and eradication measures, penalties, revision, and effective date.

#### **Proposed Sugarcane Rust and Sugarcane Smut Regulation**

I. Pests: Sugarcane Rust, *Puccinia melanocephala* Syd. and Sugarcane Smut, *Ustilago scitaminea* Syd.

II. Agent or Inspector: An authorized representative of the Commissioner of the Louisiana Department of Agriculture.

III. Inspection, Control and Eradication Authority:

a. Agents of the Louisiana Department of Agriculture shall be allowed entrance onto any property or premises to determine if the pests exist on such and to take such action, as in the judgment of the State Entomologist, is necessary to control or eradicate the pests wherever found.

b. No person, firm or corporation shall in any way interfere with an agent of the Louisiana Department of Agriculture in carrying out the provisions of this regulation, or interfere with the application of suppressive measures for the control and eradication of the Sugarcane Rust and/or Sugarcane Smut should they be introduced into the State of Louisiana.

IV. Quarantined Area: Regulated area—Any area outside the State of Louisiana.

V. Regulated Products: Sugarcane plants, stalks, cuttings, seed, and any other part thereof and the same products of the genus *Erianthus* and, also, all equipment used in the production, harvest, and processing of sugarcane outside the boundaries of Louisiana.

VI. Conditions Governing Shipment of Regulated Products: Regulated products from the regulated area are prohibited entry into the State of Louisiana unless each shipment is accompanied by a special permit issued by the Louisiana State Entomologist. A special permit will be issued only after regulated products are treated in a manner approved by the State Entomologist.

VII. Control and Eradication Measures: Regulated products shipped into the State of Louisiana in violation of this regulation are subject to destruction or return to the point of origin at the discretion of the State Entomologist.

VIII. Penalties: Any person, firm, or corporation found guilty of violating the provisions of this Quarantine and Regulations is subject to the penalties provided by Section 1736 of Part III of Chapter 12 of Title 3 of the Louisiana Revised Statutes of 1950.

IX. Revision: This regulation may be revised or amended at any time as conditions and circumstances warrant.

Written comments and inquiries may be addressed through August 5, 1979, to Mr. Richard Carlton, State Entomologist, Office of Agricultural and Environmental Sciences, Box 44153, Baton Rouge, Louisiana 70804.

Richard Carlton, State Entomologist  
Office of Agricultural and Environmental Sciences

#### **NOTICE OF INTENT**

#### **Department of Agriculture Dairy Stabilization Board**

Notice is hereby given that the Department of Agriculture, Dairy Stabilization Board, under authority of Chapter 4 of Title

40:931.8(B) of the Louisiana Revised Statutes of 1950 intends to amend LAC 2-7:12.9 of the Dairy Stabilization Board Rules and Regulations.

The proposed amendment to LAC 2-17:12.9 provides for the collection of the statutory assessment from the licensed buyer of dairy products, as the agent, for the processor whose processing plant is not located within the State of Louisiana where said processor refuses or fails to obtain a Louisiana license from the Dairy Stabilization Board or refuses or fails to pay the Board's assessment.

A copy of the proposed amendment is available at the office of the Dairy Stabilization Board, Room 209, 2843 Victoria Drive, Baton Rouge, Louisiana 70805. Written comments will be accepted through August 24, 1979 at the above address. C. James Gelpi is the person responsible for responding to inquiries concerning the proposed amendment.

C. James Gelpi, Director-Attorney  
Dairy Stabilization Board

#### **NOTICE OF INTENT**

#### **Department of Agriculture Livestock Sanitary Board**

Notice is hereby given that the Department of Agriculture, Livestock Sanitary Board, proposes to amend its rules so that Regulation 3, Section 13—Equine Requirements, Paragraph "b" under "exceptions" reads as follows: "Untested horses arriving at auction market may be sold for purposes other than slaughter if a blood sample is drawn for the Coggins test at the buyer's expense; horse is kept at auction market until test results are known and if test result is negative the horse may be offered for sale for any purpose."

Interested persons may submit written comments to Dr. Forrest E. Henderson, State Veterinarian, Box 1951, Baton Rouge, Louisiana 70821 through August 5, 1979. Dr. Henderson is the person within the agency who is responsible for responding to inquiries about the proposed rule change.

Forrest E. Henderson, D.V.M.  
State Veterinarian

#### **NOTICE OF INTENT**

#### **Department of Commerce Racing Commission**

The Louisiana State Racing Commission does hereby give notice in accordance with law that it intends to adopt amendments to rules 20.10 (E) and 21.6.

Interested persons may make comments or inquiries about the proposed rules by telephoning Ms. Rosalie Robinson at (504) 568-5870 or by writing to her at Suite 1020, One Shell Square, 701 Poydras Street, New Orleans, Louisiana 70139. Ms. Robinson is the person responsible for responding to inquiries about the proposed rules. The office of the Commission will be open from 9:00 a.m. to 4:00 p.m. and interested persons may call during this time, holidays and weekends excluded. Comments relative to these proposed rules will be accepted through August 3, 1979.

#### **Proposed Rules**

§20.10 (E)—No jockey, or spouse thereof, shall own a race horse participating in the state in racing; nor shall either have any interest in one.

\* \* \* \*

§21.6—No jockey agent, or spouse thereof, shall be the owner of any race horse, nor shall either have any interest in one.

Albert M. Stall, Chairman  
Racing Commission

**NOTICE OF INTENT**

**Department of Culture, Recreation, and Tourism  
Office of State Parks**

The State Parks and Recreation Commission intends to adopt a rule restricting glass containers at all beaches and swimming areas administered by the Office of State Parks at its meeting scheduled for August 10, 1979. The following rule will be added to Section 8, Sanitation, of the existing rules and regulations:

8.7 Glass containers of any kind are prohibited within any perimeter boundaries of pools, enclosed swimming areas, enclosed beach areas, and beach parks.

Written comments may be addressed to Mr. Robert Q. Hanisee, Assistant Secretary, Office of State Parks, Department of Culture, Recreation and Tourism, Post Office Drawer 1111, Baton Rouge, Louisiana 70821.

Robert Q. Hanisee, Assistant Secretary  
Office of State Parks

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

The State Board of Elementary and Secondary Education intends to adopt, as policy, the following at its August meeting:

1. State Plan for the Nutrition Education and Training Program.
2. State Plan for Career Education.
3. Amendment to Bulletin 741, *Handbook for School Administrators*, page 19, Industrial Arts Section.

Interested persons may comment on the proposed policy changes and/or additions, in writing, until 4:30 p.m., August 8, 1979, at the following address: James V. Soileau, Executive Director, State Board of Elementary and Secondary Education, Box 44064, Baton Rouge, Louisiana 70804. Mr. Soileau is the person responsible for responding to inquiries about the proposed rules.

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

**NOTICE OF INTENT**

**Office of the Governor  
Office of Elderly Affairs**

The Office of the Governor, Office of Elderly Affairs, proposes to adopt its State Plan on Aging for Federal Fiscal Year 1980 under Titles III, IV-A, and IX of the Older Americans Act of 1965 as amended.

The proposed plan, which will be in effect from October 1, 1979, through September 30, 1980, provides guidance for the state's Aging Services Programs under the applicable titles of the Older Americans Act of 1965 as amended on October 18, 1978.

A public hearing on the proposed plan will be held at 10:30 a.m., Thursday, August 6, 1979, at the Catholic Life Center (Small

Auditorium), 1800 South Acadian Thruway, Baton Rouge. Interested persons may submit written comments through August 5, 1979, to the Office of Elderly Affairs, Box 44282, Baton Rouge, Louisiana 70804. The person within the agency responsible for responding to inquiries about the proposed State Plan is Ms. Rita Coutee.

O. B. Butler, Administrator  
Office of Elderly Affairs

**NOTICE OF INTENT**

**Office of the Governor  
Office of Elderly Affairs**

The Office of the Governor proposes to adopt rules and regulations which amend the Older Americans Act of 1965. These rules are being enacted under the authority granted to the Governor by the Department of Health, Education and Welfare, Administration on Aging, in Public Law 95-478.

The rules and regulations are being enacted pursuant to the requirements of the Administrative Procedures Act of Louisiana as amended.

Copies of, and information concerning, the proposed action may be obtained by writing to Ms. Rita Coutee, Aging Services Planner, Office of Elderly Affairs, 530 Lakeland Drive, Baton Rouge, Louisiana 70802, Phone: 342-2747. Interested persons may submit written comments until 4:30 p.m., August 3, 1979, to the above address. Ms. Coutee is the person responsible for responding to inquiries about the proposed rules.

O. B. Butler, Administrator  
Office of Elderly Affairs

**NOTICE OF INTENT**

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

The Louisiana State Board of Embalmers and Funeral Directors proposes to adopt the following new and revised rules. Interested persons may submit written comments to Dawn Scardino, Box 8757, Metairie, Louisiana 70011 through August 3, 1979. Ms. Scardino is the person responsible for responding to inquiries about the proposed rules.

**Rule 1. Application for License.**

Section 1. Application for a funeral director license or a combination embalmer and funeral director license shall be made on forms as provided by the Board.

Section 2. Applications for license shall be sworn to by the applicant before a notary public and be accompanied by a fee of one hundred dollars.

Section 3. Applications shall be filed with the Secretary of the Board not less than thirty days preceding the date of the meeting at which the applicant desires to be examined for license.

(Fee change to agree with statute change)

**Rule 2. Examinations.**

Section 1. Examinations will be held at a location to be determined by the Board on the fourth Tuesday of March and September of each year and at such other times as the Board may deem necessary and expedient.

Section 2. Applicants for funeral director's license shall be given a written and/or oral examination on any subjects that the

Board may deem necessary in keeping with the intent of the statutes.

Section 3. Applicants for a combination embalmer and funeral director license shall appear before the Board and be given a written and/or oral examination on subjects defined in courses required under R.S. 37:842 and such other subjects as the Board may deem necessary.

Section 4. Whenever an applicant shall fail to be present for examination at the time and place set by the Board, said applicant shall present a reasonable excuse for failure to attend and, by doing so, said applicant may attend the next examination held by the Board without payment of further examination fee, but shall not be entitled to further consideration in case of failure to be present at said next examination, and shall thereby forfeit the examination fee paid to the Board.

Section 5. Applicants, whose applications for examination are not accepted by this Board, shall be entitled to a return of the fee accompanying said applications.

Section 6. Any applicant for a funeral director's or embalmer and/or funeral director's license whose application has been accepted by the Board, and who shall fail in an examination shall not be entitled to the return of the examination fee, but shall be entitled to one reexamination at the next regular examination. Any applicant who shall fail the reexamination shall not be entitled to further consideration. In order to qualify for subsequent examinations, applicant must reapply as provided in R.S. 37:842. In addition, a funeral director applicant must serve one additional year of internship, and embalmer applicant must complete a three-month refresher course at an institution properly recognized by this Board and shall give proper evidence of the completion of said course.

Section 7. All questions used on examinations are the property of the Board, and must be returned by the applicants with their answers immediately upon completion of examinations.

Section 8. Any applicant found to have in his possession material of any nature which, in the opinion of the Board, may be used to assist in the examination, shall forfeit the fee paid and be ejected from the examination and shall not be entitled to any further consideration.

Section 9. When the applicant has complied with all requirements, and has received a passing mark of not less than seventy percent on the examinations for embalming and/or funeral directing, he shall be entitled to receive a license to practice the science of embalming and/or to engage in the business of funeral directing, provided the requirements of internship have been met.

#### Rule 3. Internship.

Section 1. Any person desiring to engage in the practice of embalming in this state shall serve as an intern in Louisiana for one year under the direct supervision of a Louisiana licensed embalmer and shall have actively assisted in the preparation of at least twenty-five dead human bodies during his internship. The internship must be served within twelve months prior to entering embalming school, or within twelve months after graduating from embalming school.

Section 2. Any person desiring to engage in the profession of funeral directing in this state shall serve as an intern, in Louisiana, under the direct supervision of a Louisiana licensed funeral director for one year. He shall have actively assisted in conducting twenty-five funerals during period of internship. Upon completion of internship, intern applicant must appear before the Board at its next regular examination meeting except when a delayed appearance for good cause acceptable to the Board is allowed.

Section 3. Each intern shall make application to the Board on prescribed forms, accompanied by a fee of \$37.50, and if found

acceptable shall be registered as such and given an identification card. Registration is for one year only. At the end of this internship period, applicant must appear at the next regular Board examination provided the educational requirements have been met. The intern may appeal to the Board for an extension of his internship provided, however, that he make application before the Board for such extension and that he appear at a regular meeting to show cause for this extension. Reapplication shall be an additional \$37.50. The Board may, at its own discretion, extend an internship to any period not to exceed one year. Each intern is required to file a complete report (each category must be marked as worked on or not worked on), for each month claimed served, which report must be filed monthly in the Board's office before an applicant is considered completed and before the applicant is eligible for examination.

Section 4. When tenure of internship is completed, an affidavit by both the intern and the person under whose direct supervision he served, shall be filed not later than fifteen days with the Board. Said affidavit shall list the number of bodies embalmed and/or funerals assisted in.

Section 5. The Secretary, upon notification by the applicant, will inform the licensed person responsible for the training of the intern of the rules and regulations concerning the internship and that he will be responsible to the Board for the application and enforcement of these rules and regulations.

Credit for funeral directors and/or embalmer internship shall not be allowed to any person while he is in military service or while enrolled in a university or college or in attendance at an embalming school nor in any event unless the intern shall serve the person under whom such training is given on a bona fide full-time basis between the hours of 7:00 a.m. and 7:00 p.m., which constitutes his primary occupation. Part-time students shall be permitted only if their school training is served during hours that do not interfere with times set forth in the regulation cited above and the intern meets all other requirements of the rule.

Penalties: It shall be a requirement and responsibility of the intern to make these reports monthly and to have them in the office of the Secretary on date specified. Failure to perform as specified in this rule will mean automatic loss of that monthly credit. Failure of the licensed trainer to perform as agreed or to in any way falsify records of the internship will cause a fine to be levied in accordance with R.S. 37:850 for said violation.

#### Rule 4. Funeral Establishments.

Section 1. Application for a funeral establishment license shall be made upon the form provided by the Board, sworn to by applicant and accompanied by a fee of five hundred dollars. Said establishment shall meet the requirements as defined in R.S. 37:842. When an existing licensed establishment is sold, or in excess of fifty percent of the stock in a corporation holding an establishment license is sold, the purchaser must pay a fee of five hundred dollars for a new license. The seller and the purchaser are required to notify the Board within ten days from the date of the sale or sales as set forth above, providing the Board with full information as to the sale. Failure by either party to provide the Board with notice, as herein set out, will bring about the suspension and/or revocation of the license of either or both parties.

Section 2. The license is effective for a fixed place, or establishment, and for a specific name. Whenever the location or name of the licensed establishment is changed, a new license shall be obtained and a renewal fee of two hundred dollars paid. All changes of name and/or location must be reported to the Board's Secretary without delay.

Section 3. It shall be required that a licensed funeral director and/or embalmer be in charge of each funeral establishment. No licensed funeral director shall, during a protracted absence from

his business, leave his establishment in charge of any person other than a licensee holding a license issued by this Board.

Section 4. Each funeral establishment shall be subject to inspection and shall comply with the following requirements:

A. Each establishment must be provided with suitable and dignified quarters devoted to such activities incident or related to the preparation and arrangement for the burial, or other disposition, of dead human bodies from which a funeral may be conducted.

It shall be the duty of the Board or anyone designated by the Board to inspect the establishment wherein licensed embalmers or funeral directors are practicing or propose to practice, to determine if proper and adequate facilities are provided.

B. Each establishment must consist of and be inspected for an adequate building containing a display room, which must contain a minimum of six adult caskets, embalming room, office or arrangement room, rest rooms (separate for men and women), parlors or chapel. They shall also contain suitable furnishings, equipment and other facilities that meet the standards of the Fire and Sanitary Codes of the State of Louisiana.

C. The preparation or embalming room of medium size shall meet the following requirements:

(1) Floors of tile, cement, linoleum, or like composition, finished with a glazed surface.

(2) Walls and ceilings shall be finished with tile, or other material finished with enamel or other waterproof material.

(3) A sanitary embalming table of metal, glass, or porcelain top, with running water draining from the table into a drain connected with a sewer or other proper receptacle.

(4) Suitable sanitary plumbing which shall comply with the requirements of the Louisiana State Office of Health Services and Environmental Quality.

(5) Only equipment and supplies necessary for the preparation or care of dead human bodies for disposal or transportation are to be kept in the preparation room. At no time shall it be used as a storage room.

(6) The room shall be properly ventilated and comply in respect to ventilation with state and local laws or ordinances and regulations. It shall be so ventilated that no deleterious odors be permitted to enter into any other part of the establishment or adjoining premises.

(7) The embalming or preparation room shall be strictly private and no one shall be allowed therein while the body is being embalmed except the licensed embalmers and other authorized persons and officials in the discharge of their duties.

(8) There shall not be any direct connection between the preparation or embalming rooms with the living quarters of a funeral establishment or rooms where food is customarily prepared and served. Its doors shall be closed at all times and all of its windows must be screened as a safeguard to the public health.

(9) Each funeral establishment and each preparation or embalming room shall be maintained in a clean and sanitary condition at all times. All instruments and other appliances used in embalming dead human bodies shall be thoroughly cleansed immediately at the conclusion of each individual case.

(10) Each funeral establishment must have available in the preparation room or embalming room a register book or log. The name of each body embalmed, place (if other than at establishment), the date and time that the embalming took place, the name and signature of the embalmer and his license number must be noted in said book. This must be available at all times in full view for our inspector.

D. (1) Each funeral establishment shall meet the requirements as provided by law relative to personnel.

(2) Each funeral establishment licensed by this Board to conduct the business of funeral directing as defined in R.S. 37:831-861 must have as its owner, partner, or shareholder, a person or persons licensed by this Board.

If the funeral establishment is a sole proprietorship, then the sole proprietor must be licensed by this Board.

Should the funeral establishment be a partnership, then a partner who is in charge of the conduct of said business must be engaged in the practice of the science of embalming or the business of funeral directing or both and licensed by this Board. He must have at least a financial interest in the partnership, which financial interest shall be fixed at a minimum of ten percent.

Should the funeral establishment be a corporation, then a shareholder of said corporation who is in charge of the conduct of the business of said corporation must be engaged in the practice of the science of embalming or the business of funeral directing or both and licensed by this Board, and have a financial interest in said corporation fixed at a minimum of ten percent.

This rule shall not affect those funeral establishments which were licensed by this Board prior to the passage of this rule (12/20/78).

E. All auxiliary or branch establishments, except as hereinbelow provided, shall have layout, embalming, display, personnel, and facilities as required by this rule for funeral establishments.

Exceptions: The following auxiliary or branch establishments shall be exempt from the above requirements: (1) any establishment if it is within forty miles of the main establishment and can be practically served by the licensed personnel of the main establishment; (2) if said auxiliary or branch establishment exceeds forty miles and there exists a public need for said facilities. The nonexistence of any funeral establishment which serves the public need shall be presumptive evidence of "public need."

F. Each funeral establishment licensed by the Board shall keep a set of books or records showing the name of each body prepared for burial, the name of the licensed embalmer who did the embalming, the dates connected with death and burial, and other necessary information required by law. If and when a "trade embalmer" or outside embalmer, is called in or performs embalming, it is required that a record of his services be kept, showing his name and time when he was at the funeral establishment.

G. Any licensed funeral establishment in the State of Louisiana is hereby prohibited from sharing or permitting the use of said establishment, or from furnishing equipment for use therein, or from rendering personal service therein, or from, in any manner entering into any arrangement or agreement with any person, for and in the conduct of such business upon such premises, who is not himself maintaining a licensed funeral establishment.

H. No one licensed by this Board shall be employed in any capacity by an unlicensed funeral establishment.

#### Rule 5. Advertising.

A. The use of misleading or false advertising will constitute unprofessional conduct. The following classes of advertising shall be deemed to be misleading:

(1) Advertising the price of caskets exclusively, without stating the prices of other merchandise and services, since the natural inference of the public is that the advertised price of caskets includes the price of the service.

(2) Offering service at "cost" plus a percentage, when the determination of the "cost" lies within the control of the funeral director or embalmer and is not published.

(3) Advertising or sale of certificates or stock participation or any form of agreement which creates the impression with the purchaser, when such is not a fact, that he becomes a part owner in the advertiser's establishment and therefore entitled to special price privileges for funeral services.

(4) Advertising which impugns the honesty, trustworthiness, or business or professional standards of competitors, or which states that the prices charged by competitors are considerably higher than those charged by the advertiser, when such is not the fact.

(5) Advertising which represents the advertiser to be the special defender of the public interest or which makes it appear that the advertiser is subjected to the combined attack of competitors. Such expressions as "independent," "not in the trust," "not controlled by the combine," and other expressions having the same import shall be deemed to be misleading unless it be shown by the advertiser that there is a "trust," or a "combine" and that other funeral directors constitute a monopoly for the purpose of maintaining prices or for any other purpose; and the burden of proving such "trust," "combine," or "monopoly" shall be upon the advertiser asserting the existence of the same.

B. It is prohibited for a licensed funeral establishment to authorize advertising by others not licensed by this Board, when such advertising offers services and/or merchandise primarily performed and offered by a licensed funeral director/embalmer and establishment, as defined in R.S. 37:831-861. Such advertising shall be considered as an inducement when used along with or in conjunction with plans, merchandise, preneed plans, or the like which are normally sold by others. The above rule does not, however, prohibit a licensed funeral establishment from advertising an affiliation with an insurance company.

Rule 7. License Renewal and Reinstatement.

Section 1. All individual licenses issued by the Board shall expire on the first day of December of each year and must be renewed on or before the thirty-first day of December. All establishment licenses and preneed affidavits shall also expire on the first day of December and must be renewed on or before the thirty-first day of December following said expiration. Applications for renewal of licenses must be made to the Secretary of the Board, upon forms furnished by said Board, and must be accompanied by a renewal fee of twenty dollars for individual licenses for embalmers and/or funeral directors and not more than two hundred dollars for funeral establishments. There is no fee for the annual report or prepaid funeral service or merchandise.

Section 2. When a funeral director or embalmer has failed to renew his license, same may be reinstated provided application is made to the Board within five years from date of his failure to renew same. If application for renewal is filed within the prescribed time, applicant shall appear in person before the Board at a time specified and, if the Board is satisfied that the applicant has met all requirements as prescribed by law and the rules and regulations for the Board, it shall issue a renewal license for the remaining portion of the current year in which application is made, upon payment of the regular application fee of one hundred dollars. If the funeral director or embalmer fails to renew within the specified time, he must qualify under the prescribed law and rules and regulations as amended.

Section 3. When a licensed funeral establishment fails to renew its license, it shall submit to an inspection; and if the Board is satisfied that the applying establishment meets all requirements, it shall issue a renewal license for the remaining portion of

the current year upon payment of regular application fee of five hundred dollars.

Section 4. When a licensed funeral establishment or individual licensee renews the license it shall either be paid in cash, check, or money order. If, for any reason, the check or money order received is not paid by the bank for nonsufficient funds (NSF) or any other reason, the licensee or the firm forwarding the funds shall be assessed a penalty of ten dollars for individual license and twenty-five dollars for establishment license. In either event, the license fee and penalty must be in the office within ten days after the notice of NSF or nonpayment is received. In the event the money is not received within the ten day period, the regular delinquent assessment will be levied.

Section 5. The Board, after full review of a bona fide retired or disabled licensee applicant who has been licensed by this Board at least twenty years, has reached the age of legal retirement, or is disabled and is no longer actively involved in the professional pursuit of funeral directing or embalming and is completely separated from a licensed establishment doing business in this state, may permit a retirement/disabled classification that would waive the assessment fee for that particular year. This classification must be renewed each year upon proper application after review and passage by a majority vote of the Board.

\* \* \* \*

Rule 12. Mandatory Disclosure. Every funeral firm in this state and/or the funeral service licensee thereof shall give or cause to be given to the person or persons making funeral arrangements or arranging for the disposition of a dead human body, at the time such arrangements are completed and prior to the time of rendering the service and/or providing the merchandise, a written statement showing to the extent then known:

1. The price of the service that the person or persons have selected and what is included therein.

2. The price of each of the supplemental items of service and/or merchandise required.

3. The amount involved for each of the items for which the firm will advance monies as an accommodation to the family.

4. The method of payment.

5. No funeral firm shall bill or cause to be billed any item that is referred to as a "cash advance" item unless the net amount paid for such item or items by the funeral firm is the same as is billed by the funeral firm.

Section A. Every funeral firm in this state or funeral service licensee thereof shall have available in their display room and inside the casket within view of the general public, the price of that particular casket and/or services included therein.

Rule 13. Transportation.

Section 1. In accordance with the definition as worded in Section 831 of Louisiana Revised Statutes the term "funeral directing" shall mean any service whatsoever connected with management and supervision of any services or act connected with management of funerals from time of death until disposition of such bodies or body for burial, cremation, or transportation out of the state for burial and in order to comply with the proper handling of the dead human body it will be necessary and required that whenever a dead human body is transported for disposition that it be in a container that eliminates direct contact by those not licensed to handle the dead and to offer protection to those who might come accidentally in contact with said body.

Section 2. No section of this regulation shall be interpreted to prohibit transportation of dead human bodies without the use of a container as specified in Section 1 hereof, in closed vehicles designed exclusively for the transportation of dead human bodies.

When remains are transported by private airline or other conveyance, not a common carrier, it must be in a closed container.

Rule 14. Injunction Proceedings. The Board may bring legal proceedings to enjoin a person or establishment violating the rules and regulations of this Board from practicing the science of embalming or conducting the business of funeral directing or operating a funeral establishment, as may be the case, until such person complies with the requirements of these rules and regulations. The injunction, if granted, shall not be suspended by bond or appeal and the person or establishment enjoined shall be case for attorney's fees not to exceed fifty dollars, and court costs.

Rule 15. Penalty. Whoever violates the rules and regulations of this Board shall be fined not less than three hundred dollars nor more than one thousand dollars for each offense, or imprisoned for not less than thirty days nor more than one hundred eighty days for each offense, or both such fine and imprisonment.

If a firm or association violates the provisions of these rules and regulations, all the members of the firm or association who knowingly violate said rules and regulations shall be subject to the penalty. If a corporation violates said rules and regulations, the members of the Board of directors and the officers of the corporation who knowingly violate said rules and regulations shall be subject to the penalty.

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

#### NOTICE OF INTENT

##### Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, proposes to adopt Maximum Allowable Costs (MAC) for the following drugs when dispensed on prescriptions.

|                                  |                      |
|----------------------------------|----------------------|
| Amoxicillin 250 mg. caps.        | \$0.2108 per capsule |
| Amoxicillin 500 mg. caps.        | 0.3942 per capsule   |
| Hydrochlorothiazide 25 mg. tabs. | 0.0250 per tablet    |
| Hydrochlorothiazide 50 mg. tabs. | 0.0306 per tablet    |

In no case may a recipient be required to provide payment for any differences in a prescription price that may occur with the implementation of MAC, nor may our office use a cost which exceeds the established maximums except as follows.

The Department of Health, Education and Welfare's (HEW) regulations provide that when a physician certifies that a specific brand is medically necessary for a particular patient, then the MAC limitations for that medication will not apply. In this case their specific guidelines provide that:

1. The certification must be in the physician's handwriting.
2. The certification may be written directly on the prescription, or on a separate sheet which is attached to the prescription.
3. A standard phrase written on the prescription, such as "brand necessary" will be acceptable.
4. A printed box on the prescription blank that could be checked by the physician to indicate brand necessity is unacceptable.
5. A handwritten statement transferred to a rubber stamp and then stamped on the prescription blank is unacceptable.

This action is proposed in order to comply with federal regulations which were promulgated in the *Federal Register*, Volume 44, Number 94, page 28,104, Monday, May 14, 1979. The Department of Health and Human Resources has already placed these rates and regulations into effect on an emergency basis.

Interested persons may submit written comments on the proposed permanent policy changes through August 3, 1979, at the following address: Mr. Alvis D. Roberts, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, Louisiana 70804. Mr. Roberts is the person responsible for responding to inquiries about the proposed rule.

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

#### NOTICE OF INTENT

##### Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, proposes to adopt increases to the maximum allowable income standards, an increase in the standard deduction to seventy dollars, an increase in the shelter deduction or in combination with the dependent care deduction not to exceed ninety dollars, and increases in the Thrifty Food Plan amounts, in accordance with federal regulations promulgated in the *Federal Register*, Volume 44, Number 93, Friday, May 11, 1979, pages 27,641 through 27,643.

Due to the length of the material that is affected by this notice, the Department of the State Register has exercised its option under R.S. 49:954.1C to omit publication in the *Louisiana Register*. Copies of this material may be secured from the Office of Family Security, Planning and Policy Formulation Section, Box 44065, Baton Rouge, Louisiana 70804. Interested persons may submit written comments to the above address through August 3, 1979. Ms. Carman L. DeJean is the person within the agency who is responsible for responding to inquiries about the proposed policies.

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

#### NOTICE OF INTENT

##### Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, proposes to set the maximum level (cap rate) for long term care eligibility for an individual at \$624.60, and for a couple occupying the same room in a long term care facility the double cap rate of occupying the same room in a long term care facility the double cap rate of \$1,249.20. This increase will allow the Medical Assistance Program to be in compliance with federal regulation 42 CFR 435.230 and 435.1011 which sets the cap rate at three hundred percent of the Supplemental Security Income payment amount. Effective July 1, 1979, this amount increased to \$208.20.

Interested persons may submit written comments on the proposed policy change through August 3, 1979, at the following address: Mr. Alvis D. Roberts, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, Louisiana 70804. Mr. Roberts is the person responsible for responding to inquiries about this proposed rule.

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

## NOTICE OF INTENT

### Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, proposes to adopt permanent rules relative to the Voluntary Quit Provisions in accordance with federal regulations promulgated in the *Federal Register*, Volume 44, Number 58, Friday, March 23, 1979, pages 17,982 - 17,985.

These proposed permanent rules have been placed in effect on an emergency basis and are published elsewhere in this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed rules through August 3, 1979, at the following address: Mr. Alvis D. Roberts, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, Louisiana 70804. Mr. Roberts is the person responsible for responding to inquiries about the proposed rule.

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

## NOTICE OF INTENT

### Department of Health and Human Resources Office of Health Services and Environmental Quality

The Department of Health and Human Resources, Office of Health Services and Environmental Quality, proposes to amend Sections 7.01 through 7.1712 of Chapter VII of the Louisiana State Sanitary Code. All other sections of Chapter VII of the Louisiana State Sanitary Code shall remain as previously promulgated and reprinted on January 1, 1974.

#### Proposed Rules Chapter VII

##### Eating and Drinking Establishments

###### 7.01 General Provisions.

7.0101 Interpretation. This shall be liberally interpreted and applied to promote its underlying purpose of protecting the public health.

7.0102 Definitions. For the purpose of this regulation:

A. "Commissary" means a catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged or stored.

B. "Corrosion-resistant materials" means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions-of-use environment.

C. "Easily cleanable" means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

D. "Employee" means the permit holder, individuals having supervisory or management duties and any other person working in a food service establishment.

E. "Equipment" means stoves, ovens, ranges, hoods, slicers, mixers, meatblocks, tables, counters, refrigerators, sinks, dish-washing machines, steam tables, and similar items other than utensils, used in the operation of a food service establishment.

F. "Food" means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

G. "Food-contact surface" means those surfaces of equipment and utensils with which food normally comes in contact,

and those surfaces from which food may drain, drip, or splash back onto surfaces normally in contact with food.

H. "Food processing establishment" means a commercial establishment in which food is manufactured or packaged for human consumption. The term does not include a food service establishment, retail food store, or commissary operation.

I. "Food service establishment" means any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term also includes delicatessen-type operations that prepare sandwiches intended for individual portion service and seasonal operations. The term does not include private homes where food is prepared or served for individual family consumption, retail food stores (unless food is prepared), the location of food vending machines, and supply vehicles.

J. "Hermetically sealed container" means a container designed and intended to be secure against microorganisms and to maintain the commercial sterility of its contents after processing.

K. "Kitchenware" means all multi-use utensils other than tableware.

L. "Law" includes federal, state, and local statutes, ordinances, and regulations.

M. "Mobile food unit" means a vehicle-mounted food service establishment designed to be readily movable.

N. "Packaged" means bottled, canned, cartoned, or securely wrapped.

O. "Person" includes an individual, partnership, corporation, association, or other legal entity.

P. "Person in charge" means the individual present in a food service establishment who is the apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.

Q. "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include clean, whole, uncracked, odor-free shell eggs or foods which have a pH level of 4.6 or below or a water activity (aW) value of 0.85 or less.

R. "Pushcart" means a nonself-propelled vehicle limited to serving nonpotentially hazardous foods or commissary-wrapped food maintained at proper temperatures.

S. "Reconstituted" means dehydrated food products recombined with water or other liquids.

T. "Regulatory authority" means the state and/or local enforcement authority or authorities having jurisdiction over the food service establishment.

U. "Safe materials" means articles manufactured from or composed of materials that may not reasonably be expected, directly or indirectly, to become a component of or otherwise affect the characteristics of any food. If materials used are food additives or color additives as defined in section 201(s) or (t) of the Federal Food, Drug and Cosmetic Act, they are "safe" only if they are used in conformity with regulations established pursuant to section 409 or section 706 of the Act. Other materials are "safe" only if, as used, they are not food additives or color additives as defined in section 201(s) or (t) of the Federal Food, Drug and Cosmetic Act, and are used in conformity with all applicable regulations of the Food and Drug Administration.

V. "Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentra-

tion of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.

W. "Sealed" means free of cracks or other openings that permit the entry or passage of moisture.

X. "Single-service articles" means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks and similar articles intended for one-time, one-person use and then discarded.

Y. "Tableware" means multi-use eating and drinking utensils.

Z. "Temporary food service establishment" means a food service establishment that operates at a fixed location for a period of time of not more than fourteen consecutive days in conjunction with a single event or celebration.

AA. "Utensil" means any implement used in the storage, preparation, transportation, or service of food.

7.0103 Separability. If any provision or application of any provision of this regulation is held invalid, that invalidity shall not affect other provisions or applications of this regulation.

#### 7.0200 Food Supplies.

7.0201 General. Food shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all laws relating to food and food labeling. The use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited.

#### 7.0202 Special Requirements.

A. Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the Grade A quality standards as established by law. Dry milk and dry milk products shall be made from pasteurized milk and milk products.

B. Fresh and frozen shucked shellfish (oysters, clams, or mussels) shall be packed in nonreturnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, and the interstate certification number issued according to law. Shell stock and shucked shellfish shall be kept in the container in which they were received until they are used. Each container of unshucked shell stock (oysters, clams, or mussels) shall be identified by an attached tag that states the name and address of the original shell stock processor, the kind of shell stock, and an interstate certification number issued by the state or foreign shellfish control agency.

C. Only clean whole eggs, with shell intact and without cracks or checks, or pasteurized liquid, frozen, or dry eggs or pasteurized dry egg products shall be used, except that hard-boiled, peeled eggs, commercially prepared and packaged, may be used.

### Food Protection

7.0203 General. At all times, including while being stored, prepared, displayed, served, or transported, food shall be protected from potential contamination, including dust, insects, animals, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, drainage, and overhead leakage or overhead drippage from condensation. The temperature of potentially hazardous food shall be 45°F or below or 140°F or above at all times, except as otherwise provided.

7.0204 Emergency Occurrences. In the event of a fire, flood, power outage, or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall immediately contact the regulatory authority. Upon receiving notice of this occurrence, the regulatory authority shall take whatever action that it deems necessary to protect the public health.

### Food Storage

7.0205 General.

A. Food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be stored in a clean, covered container except during necessary periods of preparation or service. Container covers shall be impervious and nonabsorbent, except that linens or napkins may be used for lining or covering bread or roll containers. Solid cuts of meat shall be protected by being covered in storage, except that quarters or sides of meat may be hung uncovered on clean sanitized hooks if no food product is stored beneath the meat.

B. Containers of food shall be stored a minimum of six inches above the floor in a manner that protects the food from splash and other contamination, and that permits easy cleaning of the storage area, except that:

1. Metal pressurized beverage containers, and cased food packaged in cans, glass or other waterproof containers need not be elevated when the food container is not exposed to floor moisture.

2. Containers may be stored on dollies, racks or pallets, provided such equipment is easily movable.

C. Food and containers of food shall not be stored under exposed or unprotected sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law. The storage of food in toilet rooms or vestibules is prohibited.

D. Food not subject to further washing or cooking before serving shall be stored in a way that protects it against cross-contamination from food requiring washing or cooking.

E. Packaged food shall not be stored in contact with water or undrained ice. Wrapped sandwiches shall not be stored in direct contact with ice.

F. Unless its identity is unmistakable, bulk food, such as cooking oil, syrup, salt, sugar, or flour, not stored in the product container or package in which it was obtained, shall be stored in a container identifying the food by common name.

#### 7.0206 Refrigerated Storage.

A. Enough conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of potentially hazardous food at required temperatures during storage. Each mechanically refrigerated facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to ±3°F, located to measure the air temperature in the warmest part of the facility and located to be easily readable. Recording thermometers, accurate to ±3°F, may be used in lieu of indicating thermometers.

B. Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of 45°F or below. Potentially hazardous foods of large volume or prepared in large quantities shall be rapidly cooled, utilizing such methods as shallow pans, agitation, quick chilling or water circulation external to the food container so that the cooling period shall not exceed four hours. Potentially hazardous food to be transported shall be prechilled and held at a temperature of 45°F or below.

C. Frozen food shall be kept frozen and should be stored at a temperature of 0°F or below.

D. Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers or food utensils, except that such ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head. Ice used for cooling stored food and food containers shall not be used for human consumption.

#### 7.0207 Hot Storage.

A. Enough conveniently located hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility storing potentially hazardous food shall be provided with a numeri-

cally scaled indicating thermometer, accurate to  $\pm 3^{\circ}\text{F}$ , located to measure the air temperature in the coolest part of the facility and located to be easily readable. Recording thermometers, accurate to  $\pm 3^{\circ}\text{F}$ , may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as bains-marie, steam tables, steam kettles, heat lamps, cal-rod units, or insulated food transport carriers, a product thermometer must be available and used to check internal food temperature.

B. The internal temperature of potentially hazardous foods requiring hot storage shall be  $140^{\circ}\text{F}$  or above except during necessary periods of preparation. Potentially hazardous food to be transported shall be held at a temperature of  $140^{\circ}\text{F}$  or above unless maintained in accordance with paragraph B of section 7.0206.

### **Food Preparation**

7.0208 General. Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that prior to use have been cleaned, rinsed, and sanitized to prevent cross-contamination.

7.0209 Raw Fruits and Raw Vegetables. Raw fruits and raw vegetables shall be thoroughly washed with potable water before being cooked or served.

7.0210 Cooking Potentially Hazardous Foods. Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least  $140^{\circ}\text{F}$ , except that:

A. Poultry, poultry stuffings, stuffed meats and stuffings containing meat shall be cooked to heat all parts of the food to at least  $165^{\circ}\text{F}$  with no interruption of the cooking process.

B. Pork and any food containing pork shall be cooked to heat all parts of the food to at least  $150^{\circ}\text{F}$ .

C. Rare roast beef shall be cooked to an internal temperature of at least  $130^{\circ}\text{F}$ , and rare beef steak shall be cooked to a temperature of  $130^{\circ}\text{F}$  unless otherwise ordered by the immediate consumer.

7.0211 Dry Milk and Dry Milk Products. Reconstituted dry milk and dry milk products may be used in instant desserts and whipped products, or for cooking and baking purposes.

7.0212 Liquid, Frozen, Dry Eggs and Egg Products. Liquid, frozen, dry eggs and egg products shall be used only for cooking and baking purposes.

7.0213 Reheating. Potentially hazardous foods that have been cooked and then refrigerated, shall be reheated rapidly to  $165^{\circ}\text{F}$  or higher throughout before being served or before being placed in a hot food storage facility. Steam tables, bains-marie, warmers, and similar hot food holding facilities are prohibited for the rapid reheating of potentially hazardous foods.

7.0214 Nondairy Products. Nondairy products must comply with all provisions of Chapter V of the Sanitary Code.

7.0215 Product Thermometers. Metal, stem-type, numerically scaled, indicating thermometers, accurate to  $\pm 2^{\circ}\text{F}$ , shall be provided and used to assure the attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of all potentially hazardous foods.

7.0216 Thawing Potentially Hazardous Foods. Potentially hazardous foods shall be thawed:

A. In refrigerated units at a temperature not to exceed  $45^{\circ}\text{F}$ ;

or

B. Under potable running water of a temperature of  $70^{\circ}\text{F}$  or below, with sufficient water velocity to agitate and float off loose food particles into the overflow; or

C. In a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or

D. As part of the conventional cooking process.

### **Food Display and Service**

7.0217 Potentially Hazardous Foods. Potentially hazardous food shall be kept at an internal temperature of  $45^{\circ}\text{F}$  or below or at an internal temperature of  $140^{\circ}\text{F}$  or above during display and service, except that rare roast beef shall be held for service at a temperature of at least  $130^{\circ}\text{F}$ .

7.0218 Milk and Cream Dispensing.

A. Milk and milk products for drinking purposes shall be provided to the consumer in an unopened, commercially filled package not exceeding one pint in capacity, or drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser. Where a bulk dispenser for milk and milk products is not available and portions of less than one-half pint are required for mixed drinks, cereal, or dessert service, milk and milk products may be poured from a commercially filled container of not more than one-half-gallon capacity.

B. Cream or half and half shall be provided in an individual service container, protected pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.

7.0219 Nondairy Product Dispensing. Nondairy creaming or whitening agents shall be provided in an individual service container, protected pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.

7.0220 Condiment Dispensing.

A. Condiments, seasonings and dressings for self-service use shall be provided in individual packages, from dispensers, or from containers protected in accordance with section 7.0224 of this chapter.

B. Condiments provided for table or counter service shall be individually portioned, except that catsup and other sauces may be served in the original container or pour-type dispenser. Sugar for consumer use shall be provided in protected individual packages or in pour-type dispensers.

7.0221 Ice Dispensing. Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice-self-dispensing utensils or through automatic service, ice-dispensing equipment. Ice-dispensing utensils shall be stored on a clean surface or in the ice with the dispensing utensil's handle extended out of the ice. Between uses, ice transfer receptacles shall be stored in a way that protects them from contamination. Ice storage bins shall be drained through an air gap.

7.0222 Dispensing Utensils. To avoid unnecessary manual contact with food, suitable dispensing utensils shall be used by employees or provided to consumers who serve themselves. Between uses during service, dispensing utensils shall be:

A. Stored in the food with the dispensing utensil handle extended out of the food; or

B. Stored clean and dry; or

C. Stored in running water; or

D. Stored either in a running water dipper well, or clean and dry in the case of dispensing utensils and malt collars used in preparing frozen desserts.

7.0223 Reservice. Once served to a consumer, portions of leftover food shall not be served again except that packaged food, other than potentially hazardous food, that is still packaged and is still in sound condition, may be re-served.

7.0224 Display Equipment. Food on display shall be protected from consumer contamination by the use of packaging or by the use of easily cleanable counter, serving line or salad bar protector devices, display cases, or by other effective means. Enough hot or cold food facilities shall be available to maintain the required temperature of potentially hazardous food on display.

7.0225 Reuse of Tableware. Reuse of soiled tableware by self-service consumers returning to the service area for additional food is prohibited. Beverage cups and glasses are exempt from this requirement.

### **Food Transportation**

7.0226 General. During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged so as to be protected from contamination. Foods in original individual packages do not need to be overwrapped or covered if the original package has not been torn or broken. During transportation, including transportation to another location for service or catering operations, food shall meet the requirements of this chapter relating to food protection and food storage.

7.0300 Employee Health.

7.0301 General. No person, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in a food service establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons.

### **Personal Cleanliness**

7.0302 General. Employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting work, during work as often as is necessary to keep them clean, and after smoking, eating, drinking, or using the toilet. Employees shall keep their fingernails clean and trimmed.

### **Clothing**

7.0303 General.

A. The outer clothing of all employees shall be clean.

B. Employees shall use effective hair restraints to prevent the contamination of food or food-contact surfaces.

### **Employee Practices**

7.0304 General.

A. Employees shall consume food only in designated dining areas. An employee dining area shall not be so designated if consuming food there may result in contamination of other food, equipment, utensils, or other items needing protection.

B. Employees shall not use tobacco in any form while engaged in food preparation or service, nor while in areas used for equipment or utensil washing or for food preparation. Employees shall use tobacco only in designated areas. An employee tobacco-use area shall not be designated for that purpose if the use of tobacco there may result in contamination of food, equipment, utensils, or other items needing protection.

C. Employees shall handle soiled tableware in a way that minimizes contamination of their hands.

D. Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in the food service establishment.

7.0400 Equipment and Utensils.

7.0401 General. Multi-use equipment and utensils shall be constructed and repaired with safe materials, including finishing materials; shall be corrosion resistant and nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, safe materials. Equipment, utensils, and single-service articles shall not impart odors, color, or taste, nor contribute to the contamination of food.

7.0402 Solder. If solder is used, it shall be composed of safe materials and be corrosion resistant.

7.0403 Wood. Hard maple or equivalently nonabsorbent material that meets the general requirements set forth in section 7.0401 may be used for cutting blocks, cutting boards, salad bowls, and baker's tables. Wood may be used for single-service articles, such as chop sticks, stirrers, or ice cream spoons. The use of wood as a food-contact surface under other circumstances is prohibited.

7.0404 Plastics. Safe plastic or safe rubber or safe rubberlike materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods, and which meet the general requirements set forth in section 7.0401 are permitted for repeated use.

7.0405 Mollusk and Crustacea Shells. Mollusk and crustacea shells may be used only once as a serving container. Further reuse of such shells for food service is prohibited.

7.0406 Single Service. Reuse of single service articles is prohibited.

### **Equipment**

7.0407 General. All equipment and utensils, including plastic-ware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping, and crazing.

A. Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult-to-clean internal corners and crevices. Cast iron may be used as a food-contact surface only if the surface is heated, such as in grills, griddle tops, and skillets. Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited in food-contact surfaces, except that in equipment such as ice makers or hot oil cooking equipment and hot oil filtering systems, such threads shall be minimized.

B. Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces. Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces.

C. Tubing conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice: Provided, that such tubing is fabricated from safe materials, is grommeted at entry and exit points to preclude moisture (condensation) from entering the ice machine or the ice storage bin, and is kept clean. Drainage or drainage tubes from dispensing units shall not pass through the ice machine or the ice storage bin.

D. Sinks and drain boards shall be self-draining.

7.0408 Accessibility. Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection:

A. Without being disassembled; or

B. By disassembling without the use of tools; or

C. By easy disassembling with the use of only simple tools such as a mallet, a screwdriver, or an open-end wrench kept available near the equipment.

7.0409 In-Place Cleaning. Equipment intended for in-place cleaning shall be so designed and fabricated that:

A. Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen.

B. Cleaning and sanitizing solutions will contact all interior food-contact surfaces.

C. The system is self-draining or capable of being completely evacuated.

7.0410 Pressure Spray Cleaning. Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods shall have sealed electrical wiring, switches, and connections.

7.0411 Thermometers. Indicating thermometers required for immersion into food or cooking media shall be of metal stem type construction, numerically scaled, and accurate to  $\pm 2^{\circ}\text{F}$ .

7.0412 Nonfood-Contact Surfaces. Surfaces of equipment not intended for contact with food, but which are exposed to splash or

food debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

7.0413 **Ventilation Hoods.** Ventilation hoods and devices shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping into food or onto food-contact surfaces. Filters or other grease extracting equipment shall be readily removable for cleaning and replacement if not designed to be cleaned in place and shall not become a nuisance to adjacent premises.

7.0414 **Existing Equipment.** Equipment that was installed in a food service establishment prior to the effective date of this regulation, and that does not fully meet all of the design and fabrication requirements of this section, shall be deemed acceptable in that establishment if it is in good repair, capable of being maintained in a sanitary condition, and the food contact surfaces are nontoxic. Replacement equipment and new equipment acquired after the effective date of this regulation shall meet the requirements of this regulation.

#### **Equipment Installation and Location**

7.0415 **General.** Equipment, including ice makers and ice storage equipment, shall not be located under exposed or unprotected sewer lines or water lines, open stairwells, or other sources of contamination. This requirement does not apply to automatic fire protection sprinkler heads that may be required by law.

##### **7.0416 Table-Mounted Equipment.**

A. Equipment that is placed on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a four-inch clearance between the table or counter and equipment and shall be installed to facilitate the cleaning of the equipment and adjacent areas.

B. Equipment is portable within the meaning of section 7.0416 A.

7.0417 **Floor-Mounted Equipment.** Floor-mounted equipment, unless readily movable, shall be:

A. Sealed to the floor; or

B. Installed on a raised platform of concrete or other smooth masonry in a way that meets all the requirements for sealing or floor clearance; or

C. Elevated on legs to provide at least a six-inch clearance between the floor and equipment, except that vertically mounted floor mixers may be elevated to provide at least a four-inch clearance between the floor and equipment if no part of the floor under the mixer is more than six inches from cleaning access.

7.0418 **Aisles and Working Spaces.** Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks, and dollies shall be positioned to provide accessibility to working areas.

7.0500 **Cleaning, Sanitization and Storage of Equipment and Utensils.**

##### **7.0501 Cleaning Frequency.**

A. Tableware shall be washed, rinsed, and sanitized after each use.

B. To prevent cross-contamination, kitchenware and food-contact surfaces of equipment shall be washed, rinsed, and sanitized after each use and following any interruption of operations during which time contamination may have occurred.

C. Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and the food-contact surfaces of

equipment shall be washed, rinsed, and sanitized at intervals throughout the day on a schedule based on food temperature, type of food, and amount of food particle accumulation.

D. The food-contact surfaces of grills, griddles, and similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day; except that this shall not apply to hot oil cooking equipment and hot oil filtering systems. The food-contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil.

E. Nonfood-contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles, and other debris.

##### **7.0502 Wiping Cloths.**

A. Cloths used for wiping food spills on tableware, such as plates or bowls being served to the consumers, shall be clean, dry and used for no other purpose.

B. Moist cloths or sponges used for wiping food spills on kitchenware and food-contact surfaces of equipment shall be clean and rinsed frequently in one of the sanitizing solutions permitted in section 7.0503 and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.

C. Moist cloths or sponges used for cleaning nonfood-contact surfaces of equipment such as counters, dining table tops, and shelves shall be clean and rinsed as specified in section 7.0502 and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.

##### **7.0503 Manual Cleaning and Sanitizing.**

A. For manual washing, rinsing and sanitizing of utensils and equipment, a sink with not fewer than three compartments shall be provided and used. Sink compartments shall be large enough to permit the accommodation of the equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments shall be washed manually or cleaned through pressure spray methods.

B. Drain boards or easily movable dish tables of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities.

C. Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil.

D. Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence:

1. Sinks shall be cleaned prior to use.

2. Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean.

3. Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment.

4. Equipment and utensils shall be sanitized in the third compartment according to one of the methods included in section 7.0503.

E. The food-contact surfaces of all equipment and utensils shall be sanitized by:

1. Immersion for at least one-half minute in clean, hot water at a temperature of at least 170°F; or

2. Immersion for at least one minute in a clean solution containing at least fifty parts per million of available chlorine as a hypochlorite and at a temperature of at least 75°F; or

3. Immersion for at least one minute in a clean solution containing at least 12.5 parts per million of available iodine

and having a pH not higher than 5.0 and at a temperature of at least 75°F; or

4. Immersion in a clean solution containing any other approved chemical sanitizing agent that will provide the equivalent bactericidal effect of a solution containing at least fifty parts per million of available chlorine as a hypochlorite at a temperature of at least 75°F for one minute; or

5. Treatment with steam, free from deleterious materials or additives, in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or

6. Rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under section 7.0503 in the case of equipment too large to sanitize by immersion.

F. When hot water is used for sanitizing, the following facilities shall be provided and used:

1. An integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of a least 170°F.

2. A numerically scaled indicating thermometer, accurate to ±3°F, convenient to the sink for frequent checks of water temperature.

3. Dish baskets of such size and design to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.

G. When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted under section 178.1010 of the 1976 Food Sanitation Manual (Department of Health, Education and Welfare (DHEW) Publication No. (FDA) 78-2081) and a test kit or other device that accurately measures the parts per million concentration of the solution shall be provided and used.

#### 7.0504 Mechanical Cleaning and Sanitizing.

A. Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. These machines and devices shall be properly installed and maintained in good repair. Machines and devices shall be operated in accordance with manufacturers' instructions, and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors, if any, shall be properly installed and maintained.

B. The pressure of final rinse water supplied to spray-type dishwashing machines shall not be less than fifteen nor more than twenty-five pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A permanently installed pressure regulatory and pressure gauge accessible to operator of machine and health authority shall be provided.

C. Machine or water line mounted numerically scaled indicating thermometers, accurate to ±3°F, shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.

D. Rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturers' specifications attached to the machines.

E. Drain boards shall be provided and be of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily

movable dish tables for the storage of soiled utensils or the use of easily movable dish tables for the storage of clean utensils following sanitization.

F. Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a dishwashing machine unless a pre-wash cycle is a part of the dishwashing machine operation. Equipment and utensils shall be placed in racks, trays, or baskets, or on conveyors, in a way that food-contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that permits free draining.

G. Machines (single-tank, stationary-rack, door-type machines and spray-type glass washers) using chemicals for sanitization may be used, provided, that:

1. The temperature of the wash water shall not be less than 120°F.

2. The wash water shall be kept clean.

3. Chemicals added for sanitization purposes shall be automatically dispensed.

4. Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with manufacturers' specifications for time and concentration.

5. The chemical sanitizing rinse water temperature shall be not less than 75°F nor less than the temperature specified by the machine's manufacturer.

6. Approved chemical sanitizers shall be used.

7. A test kit or other device that accurately measures the parts per million concentration of the solution shall be available and used.

H. Machines using hot water for sanitizing may be used, provided that wash water and pumped rinse water shall be kept clean and water shall be maintained at not less than the temperature stated in section 7.0504, and when checked at the dish surface shall not be less than 160°F as indicated by paper "stick-on" thermometers or less than 170°F by maximum reading thermometers.

1. Single-tank, stationary-rack, dual-temperature machine: wash temperature—150°F, final rinse temperature—180°F.

2. Single-tank, stationary-rack, single-temperature machine: wash temperature—165°F, final rinse temperature—165°F.

3. Single-tank, conveyor machine: wash temperature—160°F, final rinse temperature—180°F.

4. Multitank, conveyor machine: wash temperature—150°F, pumped rinse temperature—160°F, final rinse temperature—180°F.

5. Single-tank, pot, pan, and utensil washer (either stationary or moving-rack): wash temperature—140°F, final rinse temperature—180°F.

I. All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition.

7.0505 Drying. After sanitization, all equipment and utensils shall be air dried.

#### Equipment and Utensil Storage

7.0506 Handling. Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives, and forks shall be touched only by their handles. Cups, glasses, bowls, plates and similar items shall be handled without contact with inside surfaces or surfaces that contact the user's mouth.

7.0507 Storage.

A. Cleaned and sanitized utensils and equipment shall be stored at least six inches above the floor in a clean, dry location in a way that protects them from contamination by splash, dust,

and other means. The food-contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.

B. Utensils shall be air dried before being stored or shall be stored in a self-draining position.

C. Glasses and cups shall be stored inverted. Other stored utensils shall be covered or inverted, wherever practical. Facilities for the storage of knives, forks, and spoons shall be designed and used to present the handle to the employee or consumer. Unless tableware is prewrapped, holders for knives, forks, and spoons at self-service locations shall protect these articles from contamination and present the handle of the utensil to the consumer.

#### 7.0508 Single-Service Articles.

A. Single-service articles shall be stored at least six inches above the floor in closed cartons or containers which protect them from contamination and shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.

B. Single-service articles shall be handled and dispensed in a manner that prevents contamination of surfaces which may come in contact with food or with the mouth of the user.

C. Single-service knives, forks and spoons packaged in bulk shall be inserted into holders or be wrapped by an employee who has washed his hands immediately prior to sorting or wrapping the utensils. Unless single-service knives, forks and spoons are prewrapped or prepackaged, holders shall be provided to protect these items from contamination and present the handle of the utensil to the consumer.

7.0509 Prohibited Storage Area. The storage of food equipment, utensils or single-service articles in toilet rooms or vestibules is prohibited.

#### 7.0600 Water Supply.

7.0601 General. Enough potable water for the needs of the food service establishment shall be provided from a source constructed and operated according to law.

7.0602 Transportation. All potable water not provided directly by pipe to the food service establishment from the source shall be transported in a bulk water transport system and shall be delivered to a closed-water system. Both of these systems shall be constructed and operated according to law.

7.0603 Bottled Water. Bottled and packaged potable water shall be obtained from a source that complies with all laws and shall be handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container.

7.0604 Water Under Pressure. Water under pressure at the required temperatures shall be provided to all fixtures and equipment that use water.

7.0605 Steam. Steam used in contact with food or food-contact surfaces shall be free from deleterious materials or additives.

### **Sewage**

7.0606 General. All sewage, including liquid waste, shall be disposed of by a public sewage or by a sewage disposal system constructed and operated according to law. Nonwater-carried sewage disposal facilities are prohibited, except as permitted by sections 7.0901 through 7.0908 pertaining to temporary food service establishments or as permitted by the regulatory authority in remote areas or because of special situations.

### **Plumbing**

7.0607 General. Plumbing shall be sized, installed, and maintained according to law. There shall be no cross-connection between the potable water supply and any other source of water of

lesser chemical quality or less stringent safety and quality control nor any source of pollution through which the potable water supply might become contaminated.

7.0608 Nonpotable Water System. A nonpotable water system is permitted only for purposes such as airconditioning and fire protection and only if the system is installed according to law and the nonpotable water does not contact, directly or indirectly, food, potable water, equipment that contacts food, or utensils. The piping of any nonpotable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

7.0609 Backflow. The potable water system shall be installed to preclude the possibility of backflow. Devices shall be installed to protect against backflow and back-siphonage at all fixtures and equipment where an air gap at least twice the diameter of the water supply inlet is not provided between the water supply inlet and the fixture's flood level rim. A hose shall not be attached to a faucet unless a backflow prevention device is installed.

7.0610 Grease Traps. If used, grease traps shall be located to be easily accessible for cleaning.

7.0611 Garbage Grinders. If used, garbage grinders shall be installed and maintained according to law.

7.0612 Drains. Except for properly trapped open sinks, there shall be no direct connection between the sewage system and any drains originating from equipment in which food, portable equipment, or utensils are placed. When a dishwashing machine is located within five feet of a trapped floor drain, the dishwasher waste outlet may be connected directly on the inlet side of a properly vented floor drain trap if permitted by law.

### **Toilet Facilities**

7.0613 Toilet Installation. Toilet facilities shall be installed according to law, shall be the number required by law, shall be conveniently located, and shall be accessible to employees at all times.

7.0614 Toilet Design. Toilets and urinals shall be designed to be easily cleanable.

7.0615 Toilet Rooms. Toilet rooms shall be completely enclosed, well-lighted and shall have tight-fitting, self-closing, solid doors, which shall be closed except during cleaning or maintenance, except as provided by law. They shall also have positive ventilation.

7.0616 Toilet Fixtures. Toilet fixtures shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms used by women shall have at least one covered waste receptacle.

### **Lavatory Facilities**

#### 7.0617 Lavatory Installation.

A. Lavatories shall be at least the number required by law, shall be installed according to law, and shall be located to permit convenient use by all employees in food preparation areas and utensil-washing areas.

B. Lavatories shall be accessible to employees at all times;

C. Lavatories shall also be located in or immediately adjacent to toilet rooms or vestibules. Sinks used for food preparation or for washing equipment or utensils shall not be used for hand-washing.

7.0618 Lavatory Faucets. Each lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metering faucet used shall be designed to provide a flow of water for at least fifteen seconds without the need to reactivate the faucet. Steam-mixing valves are prohibited.

7.0619 Lavatory Supplies. A supply of hand-cleansing soap or detergent shall be available at each lavatory. A supply of sanitary towels or a hand-drying device providing heated air shall be con-

veniently located near each lavatory. Common towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the handwashing facilities.

7.0620 Lavatory Maintenance. Lavatories, soap dispensers, hand-drying devices and all related fixtures shall be kept clean and in good repair.

### **Garbage and Refuse**

#### **7.0621 Containers.**

A. Garbage and refuse shall be kept in durable, easily cleanable, insect-proof and rodent-proof containers that do not leak and do not absorb liquids. Plastic bags and wet-strength paper bags may be used to line these containers, and they may be used for storage inside the food service establishment.

B. Containers used in food preparation and utensil washing areas shall be kept covered after they are filled.

C. Containers stored outside the establishment, and dumpsters, compactors and compactor systems shall be easily cleanable, shall be provided with tight-fitting lids, doors or covers, and shall be kept covered when not in actual use. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.

D. There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.

E. Soiled containers shall be cleaned at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food preparation areas. Suitable facilities, including hot water and detergent or steam, shall be provided and used for washing containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage.

#### **7.0622 Storage.**

A. Garbage and refuse on the premises shall be stored in a manner to make them inaccessible to insects and rodents. Outside storage of unprotected plastic bags or wet-strength paper bags or baled units containing garbage or refuse is prohibited. Cardboard or other packaging material not containing garbage or food wastes need not be stored in covered containers.

B. Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insect-proof and rodent-proof and shall be large enough to store the garbage and refuse containers that accumulate.

C. Outside storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean. Garbage and refuse containers, dumpsters and compactor systems located outside shall be stored on or above a smooth surface of nonabsorbent material such as concrete or machine-laid asphalt that is kept clean and maintained in good repair.

#### **7.0623 Disposal.**

A. Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.

B. Where garbage or refuse is burned on the premises, it shall be done by approved controlled incineration that prevents the escape of smoke and particulate matter in accordance with law. Areas around incineration facilities shall be clean and orderly.

### **Insect and Rodent Control**

7.0624 General. Safe effective measures intended to minimize the presence of rodents, flies, cockroaches, and other insects on the premises shall be utilized. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents.

7.0625 Openings. Openings to the outside shall be effectively protected against the entrance of rodents. Outside openings shall be protected against the entrance of insects by tightfitting, self-closing doors, closed windows, screening, controlled air currents, or other means. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall be tight-fitting and free of breaks. Screening material shall not be less than sixteen mesh to the inch.

#### **7.0700 Floors.**

7.0701 Construction. Floors and floor coverings of all food preparation, food storage, and utensil-washing areas, and the floors of all walk-in refrigerating units, dressing rooms, locker rooms, toilet rooms and vestibules shall be constructed of smooth durable material such as sealed concrete, terrazzo, ceramic tile, durable grades of linoleum or plastic, or tight wood impregnated with plastic, and shall be maintained in good repair. Nothing in this section shall prohibit the use of antislip floor covering in areas where necessary for safety reasons.

7.0702 Carpeting. Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting is prohibited in food preparation, equipment-washing and utensil-washing areas where it would be exposed to large amounts of grease and water, in food storage areas, and toilet room areas where urinals or toilet fixtures are located.

7.0703 Prohibited Covering. The use of sawdust, wood shavings, peanut hulls, or similar material as a floor covering is prohibited.

7.0704 Drains. Properly installed, trapped floor drains shall be provided in floors that are water-flushed for cleaning or that receive discharges of water or other fluid waste from equipment, or in areas where pressure spray methods for cleaning equipment are used. Such floors shall be constructed only of sealed concrete, terrazzo, ceramic tile or similar materials, and shall be graded to drain.

7.0705 Mats and Duckboards. Mats and duckboards shall be of nonabsorbent, grease resistant materials and of such size, design, and construction as to facilitate their being easily cleaned. Duckboards shall not be used as storage racks.

7.0706 Junctures. In all new or extensively remodeled establishments utilizing concrete, terrazzo, ceramic tile or similar flooring materials, and where water-flush cleaning methods are used, the junctures between walls and floors shall be covered and sealed.

7.0707 Utility Line Installation. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility lines and pipes on the floor is prohibited.

### **Walls and Ceilings**

7.0708 Maintenance. Walls and ceilings, including doors, windows, skylights, and similar closures, shall be maintained in good repair.

7.0709 Construction. The walls, including nonsupporting partitions, wall coverings, and ceilings of walk-in refrigerating units, food preparation areas, equipment-washing and utensil-washing areas, toilet rooms and vestibules shall be light colored, smooth, nonabsorbent, and easily cleanable. Concrete or pumice blocks used for interior wall construction in these locations shall be finished and sealed to provide an easily cleanable surface.

7.0710 Exposed Construction. Studs, joists, and rafters shall not be exposed in walk-in refrigerating units, food preparation areas, equipment-washing and utensil-washing areas, toilet rooms, and vestibules. If exposed in other rooms or areas, they shall be finished to provide an easily cleanable surface.

7.0711 Utility Line Installation. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings. Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in walk-in refrigerating units, food preparation areas, equipment-washing and utensil-washing areas, toilet rooms, and vestibules.

7.0712 Attachments. Light fixtures, vent covers, wall-mounted fans, decorative materials, and similar equipment attached to walls and ceilings shall be easily cleanable and shall be maintained in good repair.

7.0713 Covering Material Installation. Wall and ceiling covering materials shall be attached and sealed so as to be easily cleanable.

#### **Cleaning Physical Facilities**

7.0714 General. Cleaning of floors and walls, except emergency cleaning of floors, shall be done during periods when the least amount of food is exposed, such as after closing or between meals. Floors, mats, duckboards, walls, ceilings, and attached equipment and decorative materials shall be kept clean. Only dustless methods of cleaning floors and walls shall be used, such as vacuum cleaning, wet cleaning, or the use of dust-arresting sweeping compounds with brooms.

7.0715 Utility Facility. In new or extensively remodeled establishments at least one utility sink or curbed cleaning facility with a floor drain shall be provided and used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mopwater or similar liquid wastes. The use of lavatories, utensil-washing or equipment-washing, or food preparation sinks for this purpose is prohibited.

#### **Lighting**

7.0716 General.

A. Permanently fixed artificial light sources shall be installed to provide at least twenty footcandles of light on all food preparation surfaces and at equipment or utensil-washing work levels.

B. Permanently fixed artificial light sources shall be installed to provide, at a distance of thirty inches from the floor:

1. At least twenty footcandles of light in utensil and equipment storage areas and in lavatory and toilet areas.

2. At least ten footcandles of light in walk-in refrigerating units, dry food storage areas, and in all other areas. This shall also include dining areas during cleaning operations.

7.0717 Protective Shielding.

A. Shielding to protect against broken glass falling onto food shall be provided for all artificial lighting fixtures located over, by, or within food storage, preparation, service, and display facilities, and facilities where utensils and equipment are cleaned and stored.

B. Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

#### **Ventilation**

7.0718 General. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes. Ventilation systems shall be installed and operated according to law and, when vented to the outside, shall not create an unsightly, harmful or unlawful discharge.

7.0719 Special Ventilation.

A. Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.

B. In new or extensively remodeled establishments, all rooms from which obnoxious odors, vapors or fumes originate shall be mechanically vented to the outside.

#### **Dressing Rooms and Locker Areas**

7.0720 Dressing Rooms and Areas. If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated rooms or areas shall not be used for food preparation, storage or service, or for utensil washing or storage.

7.0721 Locker Areas. Enough lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities may be located only in the designated dressing rooms or in food storage rooms or areas containing only completely packaged food or packaged single-service articles.

#### **Poisonous or Toxic Material**

7.0722 Materials Permitted. There shall be present in food service establishments only those poisonous or toxic materials necessary for maintaining the establishment, cleaning and sanitizing equipment and utensils, and controlling insects and rodents.

7.0723 Labeling of Toxic Materials. Containers of poisonous or toxic materials shall be prominently and distinctly labeled according to law for easy identification of contents.

7.0724 Storage of Materials.

A. Poisonous or toxic materials consist of the following categories:

1. Insecticides and rodenticides.

2. Detergents, sanitizers, and related cleaning or drying agents.

3. Caustics, acids, polishes, and other chemicals.

B. Each of the three categories set forth in paragraph A of this section shall be stored and physically located separate from each other. All poisonous or toxic materials shall be stored in cabinets or in a similar physically separate place used for no other purpose. To preclude contamination, poisonous or toxic materials shall not be stored above food, food equipment, utensils or single-service articles, except that this requirement does not prohibit the convenient availability of detergents or sanitizers at utensil or dishwashing stations.

7.0725 Use of Toxic Materials.

A. Bactericides, cleaning compounds, or other compounds intended for use on food-contact surfaces shall not be used in a way that leaves a toxic residue on such surfaces or that constitutes a hazard to employees or other persons.

B. Poisonous or toxic materials shall not be used in a way that contaminates food, equipment, or utensils, nor in a way that constitutes a hazard to employees or other persons, nor in a way other than in full compliance with the manufacturer's labeling.

7.0726 Personal Medications. Personal medications shall not be stored in food storage, preparation or service areas.

7.0727 First-aid Supplies. First-aid supplies shall be stored in a way that prevents them from contaminating food and food-contact surfaces.

#### **Premises**

7.0728 General.

A. Food service establishments and all parts of property used in connection with their operations shall be kept free of litter.

B. The walking and driving surfaces of all exterior areas of food service establishments shall be surfaced with concrete or asphalt, or with gravel or similar material effectively treated to facilitate maintenance and minimize dust. These surfaces shall be graded to prevent pooling and shall be kept free of litter.

C. Only articles necessary for the operation and maintenance of the food service establishment shall be stored on the premises.

D. The traffic of unnecessary persons through the food-preparation and utensil-washing areas is prohibited.

7.0729 Living Areas. No operation of a food service establishment shall be conducted in any room used as living or sleeping

quarters. Any entrance from living or sleeping quarters shall be provided completely separate from the food service—preparation areas.

#### 7.0730 Laundry Facilities.

A. Laundry facilities in a food service establishment shall be restricted to the washing and drying of linens, cloths, uniforms, and aprons necessary to the operation. If such items are laundered on the premises, an electric or gas dryer shall be provided and used.

B. Separate rooms shall be provided for laundry facilities except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.

#### 7.0731 Linens and Clothes Storage.

A. Clean clothes and linens shall be stored in a clean place and protected from contamination until used.

B. Soiled clothes and linens shall be stored in nonabsorbent containers or washable laundry bags until removed for laundering.

7.0732 Cleaning Equipment Storage. Maintenance and cleaning tools such as brooms, mops, vacuum cleaners and similar equipment shall be maintained and stored in a way that does not contaminate food, utensils, equipment, or linens and shall be stored in an orderly manner for the cleaning of that storage location.

7.0733 Animals. Live animals, including birds and turtles, shall be excluded from within the food service operational premises and from adjacent areas under the control of the permit holder. This exclusion does not apply to edible fish, crustacea, shellfish, or to fish in aquariums. Patrol dogs accompanying security or police officers, or guide dogs accompanying blind persons, shall be permitted in dining areas.

#### 7.0800 Mobile Food Units or Pushcarts.

7.0801 General. Mobile food units or pushcarts shall comply with the requirements of this chapter, except as otherwise provided in this paragraph and in section 7.0802. The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of the food service establishment as a mobile operation, may prohibit the sale of some or all potentially hazardous food, and when no health hazard will result, may waive or modify requirements of this chapter relating to physical facilities, except those requirements of sections 7.0804, 7.0805, 7.0806, 7.0807 and 7.0808.

7.0802 Restricted Operation. Mobile food units or pushcarts serving only food prepared, packaged in individual servings, transported and stored under conditions meeting the requirements of this regulation, or beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment, need not comply with requirements of this ordinance pertaining to the necessity of water and sewage systems nor to those requirements pertaining to the cleaning and sanitization of equipment and utensils if the required equipment for cleaning and sanitization exists at the commissary.

7.0803 Single-service Articles. Mobile food units or pushcarts shall provide only single-service articles for use by the consumer.

7.0804 Water System. A mobile food unit requiring a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing, and handwashing, in accordance with the requirements of this regulation. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be kept capped unless being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the requirements of

this regulation. An approved gauge shall be provided to determine contents level.

7.0805 Waste Retention. If liquid waste results from operation of a mobile food unit, the waste shall be stored in a permanently installed retention tank that is of at least fifteen percent larger capacity than the water supply tank. Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the mobile food unit. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system. An approved gauge shall be provided to determine contents level.

### **Commissary**

#### 7.0806 Base of Operations.

A. Mobile food units or pushcarts shall operate from a commissary or other fixed food service establishment and shall report at least daily to such location for all supplies and for all cleaning and servicing operations.

B. The commissary or other fixed food service establishment used as a base of operation for mobile food units or pushcarts shall be constructed and operated in compliance with the requirements of this chapter.

### **Servicing Area and Operations**

#### 7.0807 Servicing Area.

A. A mobile food unit servicing area shall be provided and shall include at least overhead protection for any supplying, cleaning, or servicing operation. Within this servicing area, there shall be a location provided for the flushing and drainage of liquid wastes separate from the location provided for water servicing and for the loading and unloading of food and related supplies. This servicing area will not be required where only packaged food is placed on the mobile food unit or pushcart or where mobile food units do not contain waste retention tanks.

B. The surface of the servicing area shall be constructed of a smooth nonabsorbent material, such as concrete or machine-laid asphalt and shall be maintained in good repair, kept clean, and be graded to drain.

C. The construction of the walls and ceilings of the servicing area is exempted from the provisions of sections 7.0708 through 7.0713.

#### 7.0808 Servicing Operations.

A. Potable water servicing equipment shall be installed according to law and shall be stored and handled in a way that protects the water and equipment from contamination.

B. The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewage disposal system in accordance with section 7.0606.

#### 7.0900 Temporary Food Service.

7.0901 General. A temporary food service establishment shall comply with the requirements of this regulation except as otherwise provided in this chapter. The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of the temporary food service establishment, may prohibit the sale of some or all potentially hazardous foods, and when no health hazard will result, may waive or modify requirements of this regulation.

#### 7.0902 Restricted Operations.

A. These provisions are applicable whenever a temporary food service establishment is permitted, under the provisions of section 7.0901 to operate without complying with all the requirements of this chapter.

B. Only those potentially hazardous foods requiring limited preparation. This prohibition does not apply to any potentially hazardous food that has been prepared and packaged under

conditions meeting the requirements of this chapter, is obtained in individual servings, is stored at a temperature of 45°F or below or at a temperature of 140°F or above in facilities meeting the requirements of this regulation, and is served directly in the unopened container in which it was packaged.

7.0903 Ice. Ice that is consumed or that contacts food shall be made under conditions meeting the requirements of this regulation. The ice shall be obtained only in chipped, crushed, or cubed form and in single-use safe plastic or wet-strength paper bags filled and sealed at the point of manufacture. The ice shall be held in these bags until it is dispensed in a way that protects it from contamination.

#### 7.0904 Equipment.

A. Equipment shall be located and installed in a way that prevents food contamination and that also facilitates cleaning the establishment.

B. Food-contact surfaces of equipment shall be protected from contamination by consumers and other contaminating agents. Effective shields for such equipment shall be provided, as necessary, to prevent contamination.

7.0905 Single-service Articles. All temporary food service establishments without effective facilities for cleaning and sanitizing tableware shall provide only single-service articles for use by the consumer.

7.0906 Water. Enough potable water shall be available in the establishment for food preparation, for cleaning and sanitizing utensils and equipment, and for handwashing. A heating facility capable of producing enough hot water for these purposes shall be provided on the premises.

7.0907 Wet Storage. Storage of packaged food in contact with water or undrained ice is prohibited. Wrapped sandwiches shall not be stored in direct contact with ice.

7.0908 Waste. All sewage, including liquid waste, shall be disposed of according to law.

7.0909 Handwashing. A convenient handwashing facility shall be available for employee handwashing.

7.0910 Floors. Floors shall be constructed of concrete, asphalt, tight wood, or other similar cleanable material kept in good repair. Dirt or gravel, when graded to drain, may be used as subflooring when covered with clean, removable platforms or duckboards, or covered with wood chips, shavings or other suitable materials effectively treated to control dust.

#### 7.0911 Walls and Ceilings of Food Preparation Areas.

A. Ceilings shall be made of wood, canvas, or other material that protects the interior of the establishment from the weather. Walls and ceilings of food preparation areas shall be constructed in a way that prevents the entrance of insects. Doors to food preparation areas shall be solid or screened and shall be self-closing. Screening material used for walls, doors, or windows shall be at least sixteen mesh to the inch.

B. Counter-service openings shall not be larger than necessary for the particular operation conducted. These openings shall be provided with tight-fitting solid or screened doors or windows or shall be provided with fans installed and operated to restrict the entrance of flying insects. Counter-service openings shall be kept closed, except when in actual use.

#### 7.1000 Permits.

7.1001 General. No person shall operate a food service establishment who does not have a valid permit issued to him by the regulatory authority. Only a person who complies with the requirements of this chapter shall be entitled to receive or retain such a permit. Permits are not transferable. A valid permit shall be posted in every food service establishment.

#### 7.1002 Issuance of Permit.

A. Any person desiring to operate a food service establishment shall make written application for a permit on forms pro-

vided by the regulatory authority. Such application shall include the name and address of each applicant, the location and type of the proposed food service establishment, and the signature of each applicant.

B. Prior to approval of an application for a permit, the regulatory authority shall inspect the proposed food service establishment to determine compliance with the requirements of this regulation.

C. The regulatory authority shall issue a permit to the applicant if its inspection reveals that the proposed food service establishment complies with the requirements of this chapter.

#### 7.1003 Suspension of Permit.

A. The regulatory authority may, without prior warning, notice, or hearing suspend any permit to operate a food service establishment if the holder of the permit does not comply with the requirements of this chapter, or if the operation of the establishment does not comply with the requirements of this chapter, or if the operation of the food service establishment otherwise constitutes a substantial hazard to public health. Suspension is effective upon service of the notice required by section 7.1003 B of this chapter. When a permit is suspended, food service operations shall immediately cease. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for hearing within twenty days of receipt of a request for hearing.

B. Whenever the permit is suspended, the holder of the charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for hearing will be provided if a written request for hearing is filed with the regulatory authority by the holder of the permit within ten days. If no written request for hearing is filed within ten days, the suspension is sustained. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist.

#### 7.1004 Revocation of Permit.

A. The regulatory authority may, after providing opportunity for hearing, revoke a permit for serious or repeated violations of any of the requirements of this regulation or for interference with the regulatory authority in the performance of duty.

B. Prior to revocation, the regulatory authority shall notify, in writing, the holder of the permit or the person in charge, of the specific reason(s) for which the permit is to be revoked and that the permit shall be revoked at the end of the ten days following service of such notice unless a written request for hearing is filed with the regulatory authority by the holder of the permit within such ten-day period. If no request for hearing is filed within the ten-day period, the revocation of the permit becomes final.

7.1005 Service of Notices. A notice provided for in this chapter is properly served when it is delivered to the holder of the permit, or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A copy of the notice shall be filed in the records of the regulatory authority.

7.1006 Hearing. The hearings provided for in this chapter shall be conducted by the regulatory authority at a time and place designated by it. Any oral testimony given at a hearing shall be reported verbatim, and the presiding officer shall make provision for sufficient copies of the transcript. The regulatory authority shall make a final finding based upon the complete hearing record and shall sustain, modify or rescind and notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit by the regulatory authority.

7.1007 Application after Revocation. Whenever a revocation of a permit has become final, the holder of the revoked permit may make written application for a new permit, and must demonstrate full compliance with all code requirements.

## Inspections

7.1008 Frequency. An inspection of a food service establishment shall be performed at least once every two months. Additional inspections of the food service establishment shall be performed as often as necessary for the enforcement of this chapter.

7.1009 Access. Representatives of the regulatory authority, after proper identification, shall be permitted to enter any food service establishment at any reasonable time for the purpose of making inspections to determine compliance with this chapter. The representatives shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used, or to persons employed.

7.1010 Report of Inspections. Whenever an inspection of a food service establishment or commissary is made, the findings shall be recorded on an inspection report form provided for this purpose. The inspection report form shall summarize the requirements of this chapter and shall set forth a weighted point value for each requirement. Inspectional remarks shall be written to reference, by section number, the section violated and shall state the correction to be made. The rating score of the establishment shall be the total of the weighted point values for all violations, subtracted from one hundred. A copy of the completed inspection report form shall be furnished to the person in charge of the establishment at the conclusion of the inspection. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.

### 7.1011 Correction of Violations.

A. The completed inspection report form shall specify a reasonable period of time for the correction of the violations found; and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

1. If an imminent health hazard exists, such as complete lack of refrigeration or sewage backup into the establishment, the establishment's permit shall be suspended immediately. Operations shall not be resumed until authorized by the regulatory authority.

2. All violations of four- or five-point weighted items shall be corrected as soon as possible, but in any event, within ten days following inspection. Within fifteen days after the inspection, the holder of the permit shall submit a written report to the regulatory authority stating that the four- or five-point weighted violations have been corrected. A followup inspection shall be conducted to confirm correction.

3. All one- or two-point weighted items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection.

4. When the rating score of the establishment is less than sixty, the establishment shall initiate corrective action on all identified violations within forty-eight hours. One or more reinspections will be conducted at reasonable time intervals to assure correction.

5. In the case of temporary food service establishments, all violations shall be corrected within twenty-four hours. If violations are not corrected within twenty-four hours, the establishment's permit shall be suspended immediately until authorized to resume by the regulatory authority.

B. The inspection report shall state that failure to comply with any time limits for corrections may result in suspension of the permit. An opportunity for hearing on the inspection findings or the time limitations or both will be provided if a written request is filed with the regulatory authority within ten days following cessation of operations. If a request for hearing is received, a hearing shall be held within twenty days of receipt of the request.

C. Whenever a food service establishment is required under the provisions of section 7.1011 to cease operations, it shall not resume operations until it is shown on reinspection that conditions responsible for the order to cease operations no longer exist. Opportunity for reinspection shall be offered within a reasonable time.

### Examination and Condemnation of Food

7.1012 General. Food may be examined or sampled by the regulatory authority as often as necessary for enforcement of this chapter. The regulatory authority may, upon written notice to the owner or person in charge, specifying with particularity the reasons therefor, place a hold order on any food which it believes is in violation of sections 7.0201, 7.0202, or and other section. The regulatory authority shall tag, label, or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, served, or moved from the establishment. The regulatory authority shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall state that a request for hearing may be filed within ten days and that if no hearing is requested the food shall be destroyed. If a request for hearing is received, the hearing shall be held within twenty days after receipt of the request. On the basis of evidence produced at that hearing, the hold order may be vacated, or the owner or person in charge of the food may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of this chapter.

### Review of Plans

7.1013 Submission of Plans. Whenever a food service establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the regulatory authority for review and approval before construction, remodeling or conversion is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The regulatory authority shall approve the plans and specifications if they meet the requirements of this chapter. No food service establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the regulatory authority.

7.1014 Preoperational Inspection. Whenever plans and specifications are required by section 7.1013 to be submitted to the regulatory authority, the regulatory authority shall inspect the food service establishment prior to the start of operations, to determine compliance with the approved plans and specifications and with the requirements of this chapter.

### Procedure when Infection Is Suspected

7.1015 General. When the regulatory authority has reasonable cause to suspect possible disease transmission by an employee of a food service establishment, it may secure a morbidity history of the suspected employee or make any other investigation as indicated and shall take appropriate action. The regulatory authority may require any or all of the following measures:

- A. The immediate exclusion of the employee from employment in food service establishments.

- B. The immediate closing of the food service establishment concerned until, in the opinion of the regulatory authority, no further danger of disease outbreak exists.

- C. Adequate medical and laboratory examination of the employee and of other employees and of his and their body discharges.

7.1016 Penalties. Any person (or responsible officer of that person) who violates a provision of this regulation and any person (or responsible officer of that person) who is the holder of a permit or who otherwise operates a food service establishment that does not comply with the requirements of this regulation, shall be subject to penalties as defined in R.S. 40:6.

7.1017 Injunctions. The regulatory authority may seek to enjoin those who violate any part of this regulation pursuant to the authority granted by R.S. 40:6.

\* \* \* \*

Interested persons may comment on the proposed regulations, in writing, through August 3, 1979, at the following address: Mr. J. C. Watson, Chief, Sanitarian Services, Office of Health Services and Environmental Quality, Louisiana State Office Building, 325 Loyola Avenue, Room 515, New Orleans, Louisiana 70112.

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

**NOTICE OF INTENT**

**Department of Health and Human Resources  
Office of Health Services and Environmental Quality**

The Department of Health and Human Resources, Office of Health Services and Environmental Quality, proposes to amend Sections 25A1, 25A4, 2, 4, 9, 11, 12, 14, 14.1, 16, 17, 18, 19, 22, 24, 25, 29 and 31 of Chapter XXV of the Louisiana State Sanitary Code, so as amended in the copy of the following proposed rules.

**Proposed Amendments to  
Chapter XXV of the  
State Sanitary Code**

The following sections of Chapter XXV, Frozen Desserts Regulations and Definitions, have been deleted in their entirety and have been substituted as follows:

25.A.1 General Requirements. The processing, handling, and distribution of milk and milk products in the manufacture of frozen desserts shall conform to the minimum requirements for Grade A milk as prescribed in Chapter V of the Louisiana State Sanitary Code. All milk and milk products shall be of quality approved by the State Health Officer. Counter freezer operations which freeze mixes and sell only at retail on the premises shall comply with: (a) only mixes that have been processed and packaged in an approved plant shall be allowed; (b) mixes which require reconstitution are not allowed; (c) counter freezers used for freezing mixes which contain milk solids, milk fat, or vegetable fat shall be located only in premises which meet the minimum requirements for eating and drinking establishments as prescribed in Chapter VII of the Louisiana State Sanitary Code; (d) no self-serve soft serve frozen desserts operation shall be allowed; (e) the frozen dessert operator shall be a food handler other than the cashier of a grocery or convenience store.

\* \* \* \*

25.A.4 Bacterial Count. The average bacterial plate count of pasteurized mix or frozen desserts shall at no time exceed fifty thousand per gram and the coliform count shall not be more than ten per gram, except that the coliform count of those frozen desserts which contain fruits, nuts, chocolate or other bulky flavors shall not exceed twenty per gram.

\* \* \* \*

**Section 2. Sweetening Ingredients Permitted.**

(a) The following optional nutritive sweetening ingredients may be used in the manufacture of frozen desserts: (1) sugar (sucrose); (2) dextrose; (3) invert sugar syrup; (4) corn syrup, dried corn syrup; (5) maple syrup, maple sugar; (6) honey; (7)

caramel; (8) brown sugar; (9) cane syrup and edible cane molasses; (10) maltose or malt sugar, malt syrup.

(b) The use of saccharin or other nonnutritive sweetening ingredients is prohibited except in special dietetic foods.

\* \* \* \*

Section 4. Milk and Milk Products Permitted. The following optional milk or milk products may be used: (1) milk, (2) cream, (3) fluid skim milk, (4) sweetened and unsweetened evaporated skimmed milk, (5) sweetened and unsweetened evaporated milk, (6) sweetened and unsweetened condensed milk, (7) sweetened and unsweetened condensed skim milk, (8) dry powdered whole milk, (9) dry powdered skim milk, (10) or any of these products from which lactose has been wholly or partially removed, (11) butter, (12) plastic or extra heavy cream, (13) malted milk, (14) dried cream, (15) butter oil, (16) sweet cream buttermilk, (17) condensed sweet cream buttermilk, (18) dried sweet cream buttermilk, (19) concentrated cheese whey and dried cheese whey. Any concentrated cheese whey and dried cheese whey used shall not contribute more than twenty-five per cent by weight of the total nonfat milk solids content of the finished food. The use of milk products enriched with vitamins or other enrichment ingredients may be allowed at the discretion of the State Health Officer. The terms "milk" and "cream," as used herein, mean cows' milk and cream. No sour or otherwise decomposed dairy products shall be used. The term "sour dairy product" means any dairy ingredient having an abnormally high acidity in excess of 0.25 percent (calculated as lactic acid).

\* \* \* \*

Section 9. Ice Cream. Ice cream is a frozen dessert prepared with one or more of the optional milk or milk products as prescribed in Section 4, sweetened with one or more optional sweetening agents prescribed in Section 2, with or without eggs or egg products, fruit or fruit juices, confection or other flavoring ingredients prescribed in Section 5, with or without harmless coloring. It shall contain not less than ten percent milk fat, ten percent nonfat milk solids, except that the nonfat milk solids level may be reduced as the milk fat level is increased. (See chart below.)

| Percent Milk Fat | Minimum Percent Nonfat Solids |
|------------------|-------------------------------|
| 10               | 10                            |
| 11               | 9                             |
| 12               | 8                             |
| 13               | 7                             |
| 14               | 6                             |

It shall contain not less than twenty percent, by weight, of total milk solids, and not more than one-half percent by weight of harmless stabilizer or binder, except that when the ingredients include eggs, fruit or fruit juices, specially prepared cereal flavoring, cocoa or chocolate, or nuts used for the purpose of flavoring, the ice cream may not test less than eight percent milk fat and sixteen percent total milk solids. The finished ice cream shall contain not less than 1.6 pounds of total food solids to the gallon and shall weigh not less than 4.5 pounds per gallon. Caseinates may be used once the twenty percent total milk solids requirement is met.

\* \* \* \*

Section 11. Nut Ice Cream. Nut ice cream is a frozen dessert which complies with the definition and standard of identity for ice cream as prescribed in Section 9 and which also contains properly prepared nut meats in such quantity that the finished product shall contain not less than three percent, by weight, of nuts. The butter fat and total milk solids content shall be the same as for ice cream (Section 9) with the exception that a reduction in these ingredients due solely to dilution of the ice cream mix with the nut ingredient is allowed. In no case shall it contain less than eight percent milk fat, nor less than sixteen percent of total milk solids, nor more than one-half percent of stabilizer or binder. The finished product shall