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# Policy and Procedure Memoranda

## POLICY AND PROCEDURE MEMORANDA

### Office of the Governor Division of Administration Office of State Travel

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

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

#### Title 4

#### ADMINISTRATION

#### Part V. Policy and Procedure Memoranda

#### Chapter 15. General Travel Regulations—PPM Number 49

#### §1501. Authorization and Legal Basis

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

B. Legal Basis (R.S. 39:231)—"The commissioner, with the approval of the governor, shall prescribe rules defining the conditions under which each of various forms of transportation may be used by state officers and employees and used by them in the discharge of the duties of their respective offices and positions in the state service and he shall define the conditions under which allowances will be granted for all other classes of traveling expenses and the maximum amount allowable for expenses of each class."

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

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004), LR 31:1183 (June 2005), LR 32:938 (June 2006), LR 33:966 (June 2007), repromulgated LR 33:1314 (July 2007).

#### §1502. Definitions

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

#### *Authorized Persons*—

a. advisors, consultants, contractors and other persons who are called upon to contribute time and services to the state who are not otherwise required to be reimbursed through a contract for professional, personal, or consulting services in accordance with R.S. 39:1481 et seq.

b. members of boards, commissions, and advisory councils required by federal or state legislation or regulation. Travel allowance levels for all such members and any staff shall be those authorized for state employees unless specific allowances are legislatively provided.

*Conference/Convention*—is herein defined as a meeting (other than routine) for a specific purpose and/or objective. Non-routine meetings can be defined as a seminar, conference, convention, or training. Documentation required is a formal agenda, or program, or Letter of Invitation, or registration fee. Participation as an exhibiting vendor in an exhibit /trade show also qualifies as a conference. For a hotel to qualify for conference rate lodging, requires that the hotel is hosting or is in "conjunction with hosting" the meeting. In the event the designated conference hotel(s) have no room availability, a Department Head may approve to pay actual hotel cost not to exceed the conference lodging rates for other hotels located near the conference hotel.

*Contract Airfare*—these airfares are only for use by authorized travelers on official state business. Competitive bid airfares that are fully refundable, non-penalty tickets. Contract price is firm for last seat availability.

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

*Corporate Travel Card*—credit cards issued in an employee's name to be used for official business travel expenses. Corporate Travel Cards are individual liability cards, which must be paid in full each month by the cardholder. Charges to these accounts are never the liability of the State.

*Emergency Travel*—under extraordinary circumstances where the best interests of the state require that travel be undertaken not in compliance with these regulations, approval after the fact by the Commissioner of Administration may be given if appropriate documentation is presented promptly. Each department shall establish internal procedures for authorizing travel in emergency situations.

*Extended Stays*—of an assignment made for a period of 31 or more consecutive days at a place other than the official domicile.

*In-State Travel*—all travel within the borders of Louisiana or travel through adjacent states between points within Louisiana when such is the most efficient route.

*International Travel*—all travel to destinations outside the 50 United States, District of Columbia, Puerto Rico, Virgin Islands, American Samoa and Guam.

*Lowest Logical Airfare*—airfares available to the public. In general, these types of airfares are non-refundable, penalty tickets. Penalties could include restrictions such as advanced purchase requirements, weekend stays, etc. Prices will increase as seats are sold. When schedule changes are required for lowest logical tickets, penalty fees are added.

*Official Domicile*—every state officer, employee, and authorized person, except those on temporary assignment, shall be assigned an official domicile.

a. Except where fixed by law, official domicile of an officer or employee assigned to an office shall be, at a minimum, the city limits in which the office is located. The department head or his designee should determine the extent of any surrounding area to be included, such as parish or region. As a guideline, a radius of at least 30 miles is recommended. The official domicile of an authorized person shall be the city in which the person resides, except when the department head has designated another location (such as the person's workplace).

b. A traveler whose residence is other than the official domicile of his/her office shall not receive travel and subsistence while at his/her official domicile nor shall he/she receive reimbursement for travel to and from his/her residence.

c. The official domicile of a person located in the field shall be the city or town nearest to the area where the majority of work is performed, or such city, town, or area as may be designated by the department head, provided that in all cases such designation must be in the best interest of the agency and not for the convenience of the person.

*Out-of-State Travel*—travel to any of the other 49 states plus District of Columbia, Puerto Rico, Virgin Islands, American Samoa, Guam.

*Per Diem*—a flat rate paid in lieu of travel reimbursement for people on extended stays.

*Receipts/Document Requirements*—supporting documentation must be retained according to record retention laws. It shall be at the discretion of each agency to determine where the receipts/documents will be maintained.

*State Employee*—employees below the level of state officer

*State Officer*—

a. state elected officials;  
b. department head as defined by Title 36 of the Louisiana Revised Statutes (secretary, deputy secretary, under secretary, assistant secretary, and the equivalent positions in higher education and the office of elected officials).

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

*Temporary Assignment*—any assignment made for a period of less than 31 consecutive days at a place other than the official domicile.

*Travel Period*—a period of time between the time of departure and the time of return.

*Travel Routes*—the most direct and usually traveled route must be used by official state travelers.

*Traveler*—a state officer, state employee, or authorized person when performing authorized travel.

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

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004), LR 31:1183 (June 2005), LR 32:938 (June 2006), LR 33:966 (June 2007), repromulgated LR 33:1314 (July 2007).

### §1503. General Specifications

#### A. Department Policies

1. Department heads may establish travel regulations within their respective agencies, but such regulations shall not exceed the maximum limitations established by the Commissioner of Administration. Three copies of such regulations shall be submitted for prior review and approval by the Commissioner of Administration. One of the copies shall highlight any exceptions/deviations to PPM 49.

2. Department and agency heads will take whatever action necessary to minimize all travel to carry on the department mission.

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

4. When a state agency enters into a contract with an out-of-state public entity, the out-of-state public entity may have the authority to conduct any related travel in accordance with their published travel regulations.

#### 5. Authorization to Travel

a. All travel must be authorized and approved in writing by the head of the department, board, or commission from whose funds the traveler is paid. A department head may delegate this authority in writing to one designated person. Additional persons within a department may be designated with approval from the Commissioner of Administration. A file shall be maintained on all approved travel authorizations.

b. An annual authorization for routine travel shall not cover travel between an employee's home and workplace, out-of-state travel, or travel to non-routine meetings such as conferences and conventions.

#### B. Funds for Travel Expenses

1. Persons traveling on official business will provide themselves with sufficient funds for all routine travel expenses that cannot be covered by the corporate travel card. Advances of funds for travel shall be made only for extraordinary travel and should be punctually repaid when submitting the Travel voucher covering the related travel, not later than the fifteenth day of the month following the completion of travel.

2. Exemptions. At the agency's discretion, cash advances may be allowed for:

a. employees whose salary is less than \$30,000/year;

b. employees who accompany and/or are responsible for students on group or client travel;

- c. new employees who are infrequent travelers or have not had time to apply for and receive the card;
- d. employees traveling for extended periods, defined as 31 or more consecutive days;
- e. employees traveling to remote destinations in foreign countries, such as jungles of Peru or Bolivia;
- f. advanced ticket/lodging purchase;
- g. registration for seminars, conferences, and conventions;
- h. incidental costs not covered by the corporate travel card i.e. taxi fares, tolls, registration fees; conference fees may be submitted on a preliminary request for reimbursement when paid in advance.
- i. any ticket booked by a traveler 30 days or more in advance and for which the traveler has been billed, may be reimbursed by the agency to the traveler on a preliminary expense reimbursement request. The traveler should submit the request with a copy of the bill or invoice. Passenger airfare receipts are required for reimbursement.

j. employees who infrequently travel or travelers that incur significant out-of-pocket cash expenditures.

3. Expenses Incurred on State Business. Traveling expenses of travelers shall be limited to those expenses necessarily incurred by them in the performance of a public purpose authorized by law to be performed by the agency and must be within the limitations prescribed herein.

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

5. No Reimbursement when No Cost Incurred by Traveler. This includes but is not limited to reimbursements for any lodging and/or meals furnished at a state institution or other state agency, or furnished by any other party at no cost to the traveler. In no case will a traveler be allowed mileage or transportation when he/she is gratuitously transported by another person.

#### C. Claims for Reimbursement

1. All claims for reimbursement for travel shall be submitted on state Form BA-12, unless exception has been granted by the Commissioner of Administration, and shall include all details provided for on the form. It must be signed by the person claiming reimbursement and approved by his/her immediate supervisor. The purpose for extra and unusual travel must be stated in the space provided on the front of the form. In all cases the date and hour of departure from and return to domicile must be shown.

2. Except where the cost of air transportation, conference, or seminar is invoiced directly to the agency/department, all expenses incurred on any official trip shall be paid by the traveler and his travel voucher shall show all such expenses in detail to the end that the total cost of the trip shall be reflected by the travel voucher. If the cost of air transportation is paid directly by the agency/department, a notation will be indicated on the travel voucher indicating the date of travel, destination, amount, and the fact that it has been paid by the agency/department. The traveler's copy of the passenger receipt is required.

3. In all cases, and under any travel status, cost of meals and lodging shall be paid by the traveler and claimed on the travel voucher for reimbursement, and not charged to the state department, unless otherwise authorized by the Division of Administration.

4. Claims should be submitted within the month following the travel, but preferably held until a reimbursement of at least \$10 is due. Department heads at their discretion may make the 30 day submittal mandatory on a department wide basis.

5. Any person who submits a claim pursuant to these regulations and who willfully makes and subscribes to any claim which he/she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels or advises the preparation or presentation of a claim, which is fraudulent or is false as to any material matter shall be guilty of official misconduct. Whoever shall receive an allowance or reimbursement by means of a false claim shall be subject to severe disciplinary action as well as being criminally and civilly liable within the provisions of state law.

6. Agencies are required to reimburse travel in an expeditious manner. In no case shall reimbursements require more than thirty days to process from receipt of complete, proper travel documentation.

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

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1253 (June 2000), LR 27:803 (June 2001), LR 28:1126 (June 2002), LR 29:823 (June 2003), LR 30:1112 (June 2004), LR 31:1184 (June 2005), LR 33:966 (June 2007), repromulgated LR 33:1315 (July 2007).

#### §1504. Methods of Transportation

A. Cost-Effective Transportation. The most cost-effective method of transportation that will accomplish the purpose of the travel shall be selected. Among the factors to be considered should be length of travel time, employee's salary, cost of operation of a vehicle, cost and availability of common carrier services, etc. Common carrier shall be used for out-of-state travel unless it is documented that utilization of another method of travel is more cost-efficient or practical and approved in accordance with these regulations

#### B. Air

1. Private Owned or Charter Planes. Before travel by privately-owned or by chartered aircraft is authorized for individual's travel by a department head, the traveler shall certify that at least one hour of working time will be saved by such travel; and no other form of transportation, such as commercial air travel or a state plane, will serve this same purpose.

a. Chartering a privately owned aircraft must be in accordance with the Procurement Code.

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

- i. at the rate of \$1.07 per mile; or
- ii. at the lesser of state contract rate or coach economy airfare.

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

c. When common carrier services are unavailable and time is at a premium, travel via state aircraft shall be investigated, and such investigation shall be documented and readily available in the department's travel reimbursement files. Optimum utilization will be the responsibility of the department head.

2. Commercial Airlines (receipts required). All state travelers are to purchase commercial airline tickets through the state contracted travel agency. This requirement is mandatory unless approval is granted from the State Travel Office. (In the event a traveler seeks approval to go outside the travel agency, they shall submit their request through their agency travel program administrator, who will determine if the request should be submitted to the Office of State Travel.) While the use of the contract travel agency is mandatory, the state traveler has options for the type of airfare ticket purchased. This office strongly encourages use of lowest logical airfares, not state contract fares. You should ask the contracted travel agency to check for the lowest logical rates based on your personal needs. The State always supports purchasing the "best value" ticket. Therefore, once all rates are received, the traveler must compare cost and options to determine which fare would be the "best value" for their trip. To make this determination, the traveler must ask the question: Is there a likelihood my itinerary could change or be cancelled? Depending on the response, you must determine if the costs associated with changing a non-refundable ticket (usually around \$100) would still be the best value. Another factor to assist having a contracted travel agent search the lowest fare is being able to advise the agent if you are flexible in either your dates or time of travel. By informing the contracted travel agent of your "window of time" for your departure and return will assist them to search for the best price.

a. Travelers are to seek airfares allowing an ample amount of lead time prior to departure date. The lead-time should be at least 14 days in advance of travel dates to ensure the lowest fares are available. Generally, the earlier a ticket is purchased, provides for lower airfares.

b. State contract airfare tickets are not available for personal, companion or spouse travel. This is a requirement of the airlines and our failure to monitor the use of these contract airfares could cause their cancellation. Therefore, persons booking tickets for non-official business using contract rates will be subject to disciplinary action as well as payment of the difference between contract airfare and full coach fares.

c. Commercial air travel will not be reimbursed in excess of lowest logical or state contract air rate when it has been determined to be the best value. (Receipts required). The difference between contract or coach/economy class rates and first class or business class rates will be paid by the traveler. If space is not available in less than first or business class air accommodations in time to carry out the purpose of the travel, the traveler will secure a certification from the airline indicating this fact. The certification is required for travel reimbursement.

d. The policy regarding airfare penalties are the state will pay for the airfare and/or penalty incurred for a change in plans or cancellation when the change or

cancellation is required by the state or other unavoidable situations approved by the agency's department head. Justification for the change or cancellation by the traveler's department head is required on the travel voucher.

e. When an international flight segment is more than 10 hours in duration, the state will allow the business class rate not to exceed 10 percent of the coach rate. The traveler's itinerary provided by the travel agency must document the flight segment as more than 10 hours and must be attached to the travel voucher.

f. A lost airline ticket is the responsibility of the person to whom the ticket was issued. The airline charge of searching and refunding lost tickets will be charged to the traveler. The difference between the prepaid amount and the amount refunded by the airlines must be paid by the employee.

g. If companion fares are purchased for a state employee and non-state employee, the reimbursement to the state employee will be the amount of the lowest logical fare.

h. Traveler is to use lowest logical airfare/state contract whether the plane is a prop or jet.

i. Employees may retain promotional items, including frequent flyer miles, earned on official state travel. However, if an employee makes travel arrangements that favor a preferred airline/supplier to receive promotional items/points and this circumvents purchasing the most economical means of travel, they are in violation of this travel policy. Costs for travel arrangements subject to this violation are non-reimbursable.

j. When making airline reservations for a conference, let the contracted travel agent know that certain airlines have been designated as the official carrier for the conference. In many instances, the conference registration form specifies that certain airlines have been designated as the official carrier offering discount rates, if available. If so, giving this information to our contracted agencies could result in them securing that rate for your travel.

C. Motor Vehicle. No vehicle may be operated in violation of state or local laws. No traveler may operate a vehicle without having in his/her possession a valid U.S. driver's license. Safety restraints shall be used by the driver and passengers of vehicles. All accidents, major and minor, shall be reported first to the local police department or appropriate law enforcement agency. An accident report form, available from the Office of Risk Management (ORM) of the Division of Administration, should be completed as soon as possible and returned to ORM, together with names and addresses of principals and witnesses. Any questions about this should be addressed to the Office of Risk Management of the Division of Administration. These reports shall be in addition to reporting the accident to the Department of Public Safety as required by law.

#### 1. State-Owned Vehicles

a. No person may be authorized to operate or travel in a fleet vehicle unless that person is a classified or unclassified employee of the state of Louisiana; any duly appointed member of a state board, commission, or advisory council; and any other person who has received specific approval from the Division of Administration to operate or travel in a fleet vehicle.

b. All purchases made on state gasoline credit cards must be signed for by the approved traveler making the

purchase. The license number, the unit price, and quantity of the commodity purchased must be noted on the delivery ticket by the vendor. Items incidental to the operation of the vehicle may be purchased via state gasoline credit cards only when away from official domicile on travel status. In all instances where a credit card is used to purchase items or services which are incidental to the operation of a vehicle, a copy of the credit ticket along with a written explanation of the reason for the purchase will be attached to the monthly report mentioned in this subsection. State-owned credit cards will not be issued to travelers for use in the operation of privately owned vehicles.

c. Travelers in state-owned automobiles who purchase needed repairs and equipment while on travel status shall make use of all fleet discount allowances and state bulk purchasing contracts where applicable. Each agency/department shall familiarize itself with the existence of such allowances and/or contracts and location of vendors by contacting the Purchasing Office, Division of Administration.

d. The travel coordinator/officer/user of each state-owned automobile shall submit a monthly report to the department head, board, or commission indicating the number of miles traveled, odometer reading, credit card charges, dates, and places visited.

e. State-owned vehicles may be used for out-of-state travel only if permission of the department head has been given prior to departure. If a state-owned vehicle is to be used to travel to a destination more than 500 miles from its usual location, documentation that this is the most cost-effective means of travel should be readily available in the department's travel reimbursement files.

f. Unauthorized persons should not be transported in state vehicles. Approval of exceptions to this policy may be made by the traveler's supervisor if he determines that the best interest of the state will be served and if the passenger (or passenger's guardian) signs a statement acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel.

## 2. Personally Owned Vehicles

a. When two or more persons travel in the same personally owned vehicle, only one charge will be allowed for the expense of the vehicle. The person claiming reimbursement shall report the names of the other passengers.

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

c. Mileage shall be computed by one of the following options:

i. on the basis of odometer readings from point of origin to point of return;

ii. by using a website mileage calculator or a published software package for calculating mileage such as Tripmaker, How Far Is It, Mapquest, etc.. Employee is to print the page indicating mileage and attach it with their travel expense form.

d. An employee shall never receive any benefit from not living in his / her official domicile. In computing reimbursable mileage to an authorized travel destination from an employees residence outside the official domicile,

the employee is always to claim the lesser of the miles from their official domicile or from their residence. If an employee is leaving on a non-work day or leaving significantly before or after work hours, the department head may determine to pay the actual mileage from the employee's residence.

e. The department head or his designee may approve an authorization for routine travel for an employee who must travel in the course of performing his/her duties; this may include domicile travel if such is a regular and necessary part of the employee's duties, but not for attendance at infrequent or irregular meetings, etc. within the city limits where his/her office is located, the employee may be reimbursed for mileage only.

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

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

h. When a traveler is required to regularly use his/her personally owned vehicle for agency activities, the agency head may request authorization from the Commissioner of Administration for a lump sum allowance for transportation or reimbursement for transportation (mileage). Request for lump sum allowance must be accompanied by a detailed account of routine travel listing exact mileage for each such route. Miscellaneous travel must be justified by at least a three-month travel history to include a complete mileage log for all travel incurred, showing all points traveled to or from and the exact mileage. Requests for lump sum allowance shall be granted for periods not to exceed one fiscal year.

i. The traveler shall be required to pay all operating expenses of the vehicle including fuel, repairs, and insurance.

## 3. Rented Motor Vehicles (Receipts Required)

a. In-State Vehicle Rental. The state has contracted for In-State vehicle rentals which use is mandatory unless it is documented that the vendor does not have the appropriate size fleet in stock for the date of use.

b. Out-of-State Vehicle Rental. For vehicle rentals outside of Louisiana, the State does not provide contracts. However, the State has received price offers that will be available from multiple vehicle rental companies listed in the Louisiana Travel Guide. When a traveler is approved to rent a vehicle for out-of-state use, they may select a vendor listed in the guide or seek a lower rate.



c. Approvals. Written approval of the department head prior to departure is required for the rental of vehicles. Such approval may be given when it is shown that vehicle rental is the only or most economical means by which the purposes of the trip can be accomplished. In each instance, documentation showing cost effectiveness of available options must be readily available in the reimbursement files. This authority shall not be delegated to any other person.

d. Vehicle Rental Size. Only the cost of a compact model is reimbursable, unless:

- i. non-availability is documented;
- ii. the vehicle will be used to transport more than two persons; or
- iii. the cost of a larger vehicle is no more than the rental rate for a compact.

When a larger vehicle is an option as stated in Items i or ii above, the upgraded vehicle shall be the next smallest size necessary to accommodate the number of persons traveling.

e. Personal Rental Days. Any personal rental days on a vehicle rented for official state business is not reimbursable and shall be deducted.

f. Gasoline (Receipts Required). The state's preference is to purchase gasoline at reasonable cost from a local gasoline station prior to returning the rental. Pre-paid Fuel Options are only to be allowed when the traveler can document that the pre-purchased amount was necessary and that the amount charged by the rental company is reasonable in relation to local gasoline cost.

g. Insurance for Vehicle Rentals within the 50 United States. Insurance billed by car rental companies (i.e. CDW and LDW) is not reimbursable for travel within the 50 United States. Insurance coverage for rental vehicles is provided by the Office of Risk Management. Should a collision occur while on official state business, the accident should be reported to the Office of Risk Management, as soon as possible.

h. Insurance for Vehicles Rentals Outside the 50 United States (Receipts Required). The Office of Risk Management (ORM) recommends that the appropriate insurance (liability and physical damage) provided through the car rental company be purchased when the traveler is renting a vehicle outside the 50 United States. With the approval of the department head required insurance costs may be reimbursed for travel outside the 50 United States only.

1. The following are insurance packages available by rental vehicle companies which are reimbursable.

a. Collision Damage Waiver (CDW)—should a collision occur while on official state business, the cost of the deductible should be paid by the traveler and a reimbursement claimed on a travel expense voucher. The accident should also be reported to the Office of Risk Management.

b. Loss Damage Waiver (LDW)

c. Auto tow Protection (ATP) \*approval of department head

d. Supplementary Liability Insurance (SLI) \*if required by the rental company.

e. Theft and/or Super Theft Protection (coverage of contents lost during a theft or fire), \*if required by the car rental company

f. Vehicle coverage for attempted theft or partial damage due to fire, \*if required by the car rental company

2. The following are some of the insurance packages available by rental vehicle companies that are not reimbursable:

a. Personal Accident Insurance (PAC)

b. Emergency Sickness Protection (ESP)

D. Public Ground Transportation. The cost of public ground transportation such as buses, subways, airport limousines, and taxis are reimbursable when the expenses are incurred as part of approved state travel. Taxi reimbursement is limited to \$15 per day without receipts; claims in excess of \$15 per day require receipts to account for total daily amount claimed. At the agency's discretion, the department head may implement an agency wide policy requiring receipts for an amount less than \$15 per day.

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#### **§1505. State Issued Travel Credit Cards/CBA Accounts**

A. Use. The State Travel Office contracts for an official state corporate travel card to form one source of payment for travel. If a supervisor recommends an employee be issued a state travel card, the employee should complete an application through their agency travel program administrator.

1. An employee's corporate travel card or agency CBA (Controlled Billed Accounts) must be used to purchase contract airfare. This is a mandatory requirement by the airlines in order to continue to receive discounted, non-penalty state contract airline tickets.

2. An employee's corporate travel card may also be used to purchase lowest logical airfare tickets and other travel related expenses such as food and lodging, but it is not mandatory.

3. The employee's corporate travel card is for official state travel business purposes only. Personal use on the state travel card may result in disciplinary action.

#### **B. Liability**

1. The corporate travel card is the liability of the employee and not the State. Each monthly statement balance is due in full to the card-issuing bank. Travel card accounts that become delinquent are subject to being suspended or revoked. Those accounts will not be reinstated until such time the bank determines that employee to be credit-worthy. The State will have no tolerance to assist those employees that abuse their travel card privileges. Employees with delinquent payment may have their travel privileges revoked and/or subject to other disciplinary action.

2. The department/agency is responsible for cancellation of Corporate Travel Cards for those employees terminating/retiring state service.

3. The department/agency's travel program administrator is responsible for completing a Maintenance Form to transfer an employee from one state agency to another. The employee may keep the same account number, but the agency change must be reported to the bank.

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### **§1506. Lodging and Meals**

#### **A. Eligibility**

1. Official Domicile/Temporary Assignment—travelers are eligible to receive reimbursement for travel only when away from "official domicile" or on temporary assignment unless exception is granted in accordance with these regulations. Temporary assignment will be deemed to have ceased after a period of thirty-one calendar days, and after such period the place of assignment shall be deemed to be his/her official domicile. He/she shall not be allowed travel and subsistence unless permission to extend the thirty-one day period has been previously secured from the Commissioner of Administration.

2. Extended Stays—for travel assignments approved by the Commission of Administration involving duty for extended periods (31 or more consecutive days) at a fixed location, the reimbursement rates indicated should be adjusted downward whenever possible. Claims for meals and lodging may be reported on a per diem basis supported by lodging receipt. Care should be exercised to prevent allowing rates in excess of those required to meet the necessary authorized subsistence expenses. It is the responsibility of each agency head to authorize only such travel allowances as are justified by the circumstances affecting the travel.

#### **3. Single Day Travel**

a. Meals are not eligible for reimbursements on single day travel. This means that when an authorized traveler of the State is in travel status where no overnight stay is required, no meals are eligible for reimbursement. Each department head or their designees are to determine the reasonableness of when an over night stay is justified.

b. However, the department head will be allowed to authorize single day meal reimbursements on a case-by-case basis or by type(s) of single day travel when it is determined to be in the best interest of the department. In those cases the department must keep the approvals in the travel file and must be responsible to take appropriate steps to report the reimbursement as wages to the employee.

c. If a department head or their designee determines that single day meals will be provided for, they must follow the following allowances. To receive any meal reimbursement on single day travel, an employee must be in travel status for a minimum of 12 hours. The maximum allowance for meal reimbursement for single day travel will be \$24.

a. Breakfast and Lunch: (\$17) The 12 hours travel duration must begin at or before 6a.m.

b. Lunch: (\$10) Requires 12 hours duration in travel status.

c. Lunch and Dinner: (\$24) The 12 hour travel duration must end at or after 8 p.m.

4. Travel with Over Night Stay. Travelers may be reimbursed for meals according to the following schedule.

a. Breakfast: When travel begins at/or before 6 a.m. on the first day of travel or extends beyond 9 a.m. on the last day of travel, or for any intervening days.

b. Lunch: When travel begins at/or before 10 a.m. on the first day of travel or extends beyond 2 p.m. on the last day of travel, or for any intervening days.

c. Dinner: When travel begins at/or before 4 p.m. on the first day of travel or extends beyond 8 p.m. on the last day of travel, or for any intervening days.

5. Alcohol. Reimbursement for alcohol is prohibited.

#### **B. Exceptions**

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

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

#### **C. Meals and Lodging Allowances**

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

2. Routine Lodging Allowance—employees will be reimbursed lodging rate, plus tax and any mandatory surcharge. (Receipts are required) For lodging rates, the inclusion of suburbs (see definitions on Suburb) shall be determined by the department head on a case-by-case basis. When two or more employees on official state business share a lodging room, the state will reimburse the actual cost of the room; subject to a maximum amount allowed for an individual traveler times the number of employees.

Department head approval must be provided to allow lodging expenses to be direct billed to an agency.

3. Conference Lodging Allowance—employees will be reimbursed lodging rate, plus tax and any mandatory surcharge. (Receipts are required) Travelers may be reimbursed expenses for conference hotel lodging per the following rates, if the reservations are made at the actual conference hotel. In the event the designated conference hotel(s) have no room availability, a Department Head may approve to pay actual hotel cost not to exceed the conference lodging rates for other hotels located near the conference hotel.

4. No reimbursements are allowed for functions not relating to a conference, i.e. tours, dances, golf tournaments, etc.

**Tier I**

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

Lodging Area	Routine Lodging	Conference Lodging
In-State Cities (except as listed)	\$60	\$70
Baton Rouge-EBR (April 1 – June 30)	\$80	\$90
Baton Rouge-EBR (July 1 – March 31)	\$94	\$104
Covington/Slidell-St. Tammany (April 1 – Aug 31)	\$70	\$80
Covington/Slidell-St. Tammany (Sept 1 – March 31)	\$95	\$105
Lake Charles-Calcasieu	\$71	\$81
Shreveport – Caddo/Bossier	\$70	\$80
Lafayette – (Oct 1- March 29)	\$60	\$70
Lafayette – (March 30 – Sept 30)	\$78	\$88

**Tier II**

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

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

**Tier III**

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

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

**Tier IV**

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

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

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**§1507. Parking and Related Parking Expenses**

A. Parking at the Baton Rouge Airport—the state's current contract rate is \$3.50 per day (no receipts required) for parking in the outside, fenced parking lot at the airport. Documentation required to receive the contract price is either a parking coupon or a travel itinerary issued by the state contracted travel agency designating the employee is on "official state business." At the agency discretion an employee may be paid actual expenses up to \$5 per day with a receipt.

B. Parking at the New Orleans Airport—the state's current contract rate is \$6 per day and \$36 weekly at Park 'N Fly (no receipts required). Documentation required to receive the contract price is your agency issued photo ID, a business card, state issued corporate card or a travel itinerary issued by the state contracted travel agency designating the employee is on "official state business". At the agency discretion an employee may be paid actual expenses up to \$8 per day with a receipt.

C. Travelers using motor vehicles on official state business will be reimbursed for reasonable storage fees, for

all other parking, including airport parking except as listed in the Subsections above, ferry fares, and road and bridge tolls. For each transaction over \$5, a receipt is required.

D. Tips for valet parking not to exceed, \$2 per day.

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#### **§1508. Reimbursement for Other Expenses**

A. The following expenses incidental to travel may be reimbursed.

1. Communications Expenses

a. For official state business—all costs (receipts required for over \$3).

b. For domestic overnight travel—up to \$3 in personal calls upon arrival at each destination and up to \$3 for personal calls every second night after the first night if the travel extends several days.

c. For international travel—up to \$10 in personal calls upon arrival at each destination and up to \$10 for personal calls every second night after the first night if the travel extends several days.

d. Internet access charges for official state business from hotels or other travel locations are treated the same as business telephone charges. A department may implement a stricter policy for reimbursement of Internet charges. (Receipts required)

2. Charges for storage and handling of state equipment. (Receipts required)

3. Baggage Tips

a. Hotel Allowances—not to exceed \$1 per bag for a maximum of three bags. Tips may be paid one time upon each hotel check-in and one time upon each hotel checkout, if applicable.

b. Airport Allowances—not to exceed \$1 per bag for a maximum of three bags. Tips may be paid one time for the airport outbound departure trip and one time for the inbound departure trip.

4. Registration fees at conferences (meals that are a designated integral part of the conference may be reimbursed on an actual expense basis with prior approval by the department head).

5. Laundry services. Employees on travel for more than seven days up to 14 days are eligible for \$20 of laundry services, and for more than 14 days up to 21 days an additional \$20 of laundry services, and so on. Receipts are required for reimbursement.

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1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:808 (June 2001), LR 28:1131 (June 2002), LR 30:1118 (June 2004), LR 31:1190 (June 2005), LR 32:941 (June 2006), repromulgated LR 33:1322 (July 2007).

#### **§1509. Special Meals**

A. Reimbursement designed for those occasions when, as a matter of extraordinary courtesy or necessity, it is appropriate and in the best interest of the state to use public funds for provision of a meal to a person who is not otherwise eligible for such reimbursement and where reimbursement is not available from another source.

1. Visiting dignitaries or executive-level persons from other governmental units, and persons providing identified gratuity services to the state. This explicitly does not include normal visits, meetings, reviews, etc, by federal or local representatives.

2. Extraordinary situations are when state employees are required by their supervisor to work more than a twelve-hour weekday or six-hour weekend (when such are not normal working hours to meet crucial deadlines or to handle emergencies).

B. All special meals must have prior approval from the Commissioner of Administration in order to be reimbursed, unless specific authority for approval has been delegated to a department head for a period not to exceed one fiscal year with the exception in Subsection C, as follows.

C. A department head may authorize a special meal within allowable rates listed under Meals—Tier 1, to be served in conjunction with a working meeting of departmental staff.

D. In such cases, the department will report on a semi-annual basis to the Commissioner of Administration all special meal reimbursements made during the previous six months. These reports must include, for each special meal, the name and title of the person receiving reimbursement, the name and title of each recipient, the cost of each meal and an explanation as to why the meal was in the best interest of the state. Renewal of such delegation will depend upon a review of all special meals authorized and paid during the period. Request to the Commissioner for special meal authorization must include, under signature of the department head:

1. name and position/title of the state officer or employee requesting authority to incur expenses and assuming responsibility for such;

2. clear justification of the necessity and appropriateness of the request;

3. names, official titles or affiliations of all persons for whom reimbursement of meal expenses is being requested;

4. statement that allowances for meal reimbursement according to these regulations will be followed unless specific approval is received from the Commissioner of Administration to exceed this reimbursement limitation.

a. All of the following must be reviewed and approved by the department head or their designee prior to reimbursement:

i. detailed breakdown of all expenses incurred, with appropriate receipts(s);

ii. subtraction of cost of any alcoholic beverages.

iii. copy of prior written approval from the Commissioner of Administration.

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**§1510. Agency Hosted Conferences**

A. State sponsored Conferences. An agency must solicit three competitive quotes in accordance with the Governor’s Executive Order for Small Purchase.

B. Conference Lunch Allowance. Lunch direct billed to an agency in conjunction with an in-state sponsored conference is to be within the following rates plus mandated gratuity.

Lunch In-State excluding New Orleans	\$15
Lunch—New Orleans	\$20

C. Conference Refreshment Allowance. Costs for break allowances for meeting, conference or convention are to be within the following rates.

1. Catering—served on properties where catering is not required: not to exceed \$2 per person, per morning and/or afternoon sessions.

2. Catering—served on properties that require catered services: not to exceed \$4.50 plus mandated gratuity per person, per morning and/or afternoon sessions.

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**§1511. International Travel**

A. All international travel must be approved by the Commissioner of Administration prior to departure, unless specific authority for approval has been delegated to a department head.

1. Requests for approval must be accompanied by a detailed account of expected expenditures (such as room rate/date, meals, local transportation, etc.), and an assessment of the adequacy of this source to meet such expenditures without curtailing subsequent travel plans.

B. International travelers will be reimbursed the Tier IV area rates for meals and lodging, unless U.S. State Department rates are requested and authorized by the Commissioner of Administration prior to departure. Receipts are required for reimbursement of meals and lodging claimed at the U.S. State Department rates.

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**§1512. Waivers**

A. The Commissioner of Administration may waive in writing any provision in these regulations when the best interest of the state will be served.

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Jerry Luke LeBlanc  
Commissioner

0707#021

# Emergency Rules

## DECLARATION OF EMERGENCY

Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division

Expedited Penalty Agreement—Solid Waste  
(LAC 33:I.807, VII.115 and 315)(MM004E1)

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

This is a renewal and revision of Emergency Rule MM0004, which was effective on March 20, 2007, and published in the *Louisiana Register* on April 20, 2007. Revisions include clarifications to a Solid Waste violation and changes in LAC 33:VII.115 and 315 to reflect amendments made in final Rule SW037, which was promulgated on June 20, 2007.

The Expedited Penalty Agreement Rule, OS054, became final on December 20, 2006. This Emergency Rule supplements that Rule by adding certain additional violations of the solid waste regulations to LAC 33:I.807, and amends LAC 33:VII.115 and 315 accordingly. The Emergency Rule will abate delays that have occurred in correcting violations of the Environmental Quality Act concerning the unauthorized transporting, disposal, and/or burning of solid wastes. Delays in enforcement reduce the effectiveness of the enforcement action and unnecessarily utilize resources. In the recent past, complaints of unauthorized disposal and burning of solid wastes have increased considerably, especially in the hurricane-impacted areas. This Emergency Rule will provide an alternative penalty assessment mechanism that the department may utilize, at its discretion, to expedite penalty agreements in appropriate cases, reducing staff time and increasing efficiency in addressing such violations. The report to the Governor by the Advisory Task Force on Funding and Efficiency of the Louisiana Department of Environmental Quality has approved an expedited penalty approach. It recommended a pilot program for addressing certain classes of violations with penalties in a timelier manner. The legislature approved that report and passed Act 1196 in the 2003 Regular Session allowing the department to promulgate rules for the program. A pilot program was created and monitored for approximately two years. Positive feedback on the program led the department to promulgate the permanent expedited penalty agreement Rule that became final on December 20, 2006.

This Emergency Rule is effective on July 18, 2007, and shall remain in effect for a maximum of 120 days or until a

final Rule is promulgated, whichever occurs first. For more information concerning MM004E1 you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx), and is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

### Title 33

## ENVIRONMENTAL QUALITY

### Part I. Office of the Secretary

#### Subpart 1. Departmental Administrative Procedures

#### Chapter 8. Expedited Penalty Agreement

#### §807. Types of Violations and Expedited Penalty

##### Amounts

A. The types of violations listed in the following table may qualify for coverage under this Chapter; however, any violation listed below, which is identified in an expedited penalty agreement, must also meet the conditions set forth in LAC 33:I.805.E.

Expedited Penalties			
Violation	Citation	Amount	Frequency
<b>All Media</b>			
*** [See Prior Text]			
<b>Solid Waste</b>			
Unauthorized on-site disposal of regulated solid waste generated at the site by the owner, lessee, or other person having an actual right, title, or interest in the property.	LAC 33:VII.315.C	\$250	Per occurrence
Unauthorized disposal of solid waste by the generator at an off-site location not permitted to receive such waste.	LAC 33:VII.315.C	\$250	Per occurrence
Operation of an unauthorized disposal site where solid waste is disposed.	LAC 33:VII.315.C	\$1000	Per occurrence
An owner, lessee, or other person having an actual right, title, or interest in the property of an unauthorized disposal site in which solid waste is disposed.	LAC 33:VII.315.C	\$1000	Per occurrence
Failure to report any discharge, deposit, injection, spill, dumping, leaking, or placing of solid waste into or on the water, air, or land.	LAC 33:VII.315.F	\$500	Per occurrence
Open burning of solid waste as prohibited by regulation.	LAC 33:VII.315.M	\$250	Per occurrence
Offering residential solid waste to an unauthorized transporter and/or facility not permitted to receive such waste.	LAC 33:VII.315.O	\$250	Per occurrence

Expedited Penalties			
Violation	Citation	Amount	Frequency
Offering commercial solid waste and/or construction and demolition debris to an unauthorized transporter and/or a facility not permitted to receive such waste.	LAC 33:VII.315.O	\$500	Per occurrence
Offering industrial solid waste to an unauthorized transporter and/or a facility not permitted to receive such waste.	LAC 33:VII.315.O	\$750	Per occurrence
Transportation of solid waste to processing or disposal facilities not permitted to receive such waste.	LAC 33:VII.505.D	\$1,000	Per occurrence
Waste Tires			
***			
[See Prior Text]			

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:2243 (December 2006), amended LR 33:

#### Part VII. Solid Waste

##### Subpart 1. Solid Waste Regulations

#### Chapter 1. General Provisions and Definitions

##### §115. Definitions

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

\* \* \*

*Transport*—to move solid waste off-site to a non-processing transfer station or collection, processing, or disposal facility.

*Transporter*—any person who moves solid waste off-site to a non-processing transfer station or collection, processing, or disposal facility, excluding individuals who transport their own residential waste to a collection facility, transfer station, or permitted solid waste landfill.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514, 2609 (November 2000), amended by the Office of Environmental Assessment, LR 31:1576 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1019 (June 2007), LR 33:

#### Chapter 3. Scope and Mandatory Provisions of the Program

##### §315. Mandatory Provisions

A. - N.2. ...

O. Generators shall not offer solid waste to transporters, processing facilities, or disposal facilities that have not received authorization and/or the required permits necessary to receive and/or manage the generator's solid waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid

Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1315 (October 1993), repromulgated LR 19:1421 (November 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), LR 30:1675 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005), LR 33:1030 (June 2007), LR 33:

Mike D. McDaniel, Ph.D.  
Secretary

0707#016

#### DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies  
Non-Rural Community Hospitals  
(LAC 50:V.308)

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated an Emergency Rule to repeal and replace all Rules governing disproportionate share hospital payment methodologies (*Louisiana Register*, Volume 31, Number 6). In compliance with Act 182 and Act 323 of the 2005 Regular Session, the June 20, 2005 Emergency Rule was amended to establish provisions for provider fees levied on hospitals as a result of the Healthcare Affordability Act (*Louisiana Register*, Volume 31, Number 7) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 31, Number 9). The June 20, 2005 Rule was subsequently amended to incorporate the provisions of the July 1, 2005 and September 1, 2005 Emergency Rules (*Louisiana Register*, Volume 31, Number 10).

The October 25, 2005 Emergency Rule was amended to: 1) change the provisions governing DSH payments to other uninsured hospitals; 2) establish provisions governing payments to private community hospitals for services rendered to displaced, uninsured citizens from mandatory evacuation parishes affected by Hurricanes Katrina and Rita; 3) change the provisions governing DSH payments to high uninsured hospitals and to establish provisions governing payments to public community hospitals (*Louisiana Register*, Volume 32, Number 7); and 4) revise the provisions governing disproportionate share hospital payments to non-rural community hospitals as a result of the allocation of additional funds by the Legislature during the 2006 Regular Session (*Louisiana Register*, Volume 32, Number 9). The department subsequently amended the

October 25, 2005 Emergency Rule to incorporate the provisions of the June 28, 2006 and September 15, 2006 Emergency Rules (*Louisiana Register*, Volume 32, Number 10) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 33, Number 1). The department amended the October 23, 2006 Emergency Rule to incorporate the provisions of the December 18, 2006 Emergency Rule (*Louisiana Register*, Volume 33, Number 2).

Act 6 of the 2007 Regular Session of the Louisiana Legislature directed the department to revise the DSH qualifications and reimbursement methodologies for the state fiscal year 2007 payment to non-rural community hospitals. In compliance with Act 6, the department now proposes to amend the February 21, 2007 Emergency Rule to revise the provisions governing DSH payments to non-rural community hospitals for state fiscal year 2007.

This action is being taken to promote the public health and welfare and to assure that hospitals are adequately compensated for their uncompensated care. It is estimated that implementation of this proposed Emergency Rule will have no fiscal impact for state fiscal year 2006-2007.

Effective June 27, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:V.308 to revise the provisions governing disproportionate share hospital payments to non-rural community hospitals for state fiscal year 2007.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

## **Part V. Medical Assistance Program—Hospital Services**

### **Subpart 1. Inpatient Hospitals**

## **Chapter 3. Disproportionate Share Hospital Payment Methodologies**

### **§308. Non-Rural Community Hospitals—SFY 2007**

#### **A. Definitions**

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

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

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

C. Private, non-rural community hospitals located in the New Orleans and Lake Charles Metropolitan Statistical Areas (MSA) shall be reimbursed 85 percent of their qualifying uninsured costs.

1. These hospitals shall submit their most current year end financial statements to the department. Those hospitals that fail to provide such statements shall receive no payments and any payment previously made shall be refunded.

2. Repealed.

3. Repealed.

4. Repealed.

D. Private, non-rural community hospitals located in all other parts of the state shall be reimbursed 85 percent of their qualifying uninsured costs that are in excess of 3.5 percent of their total costs. If a hospital's qualifying uninsured cost is less than or equal to 3.5 percent of total hospital costs, no payment shall be made.

1. Qualifying uninsured cost as used for this distribution shall mean the hospital's total charges for care provided to uninsured patients multiplied by the hospital's appropriate cost-to-charge ratio for the applicable cost report period.

2. Repealed.

3. Repealed.

4. Repealed.

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

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

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

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

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



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

I. Payment shall be made in an amount not to exceed \$750,000 in matching funds, or its equivalent, and the corresponding federal financial participation to a qualifying acute care hospital that is classified as a major teaching hospital and is contractually affiliated with a university located within the state of Louisiana that is recognized by the Centers for Disease Control and Prevention and the Health Resource and Services Administration, Maternal and Child Health Bureau as maintaining a Comprehensive Hemophilia Center for the provision of extraordinary medical services.

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

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

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

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

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

0707#010

## **DECLARATION OF EMERGENCY**

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

#### **Home Health Services—Extended Nursing Services Reimbursement Increase (LAC 50:XIII.701)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XIII.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted revised provisions governing extended and multiple daily nursing visits for recipients up to age 21 under the Home Health Program in LAC 50:XIII.305 (*Louisiana Register*, Volume 32, Number 3). This Emergency Rule is being promulgated to increase the rates paid for extended nursing services in the Home Health Program.

This action is being taken to promote the health and well-being of recipients by assuring continued access to services through assisting providers to recruit and retain sufficient nursing staff. In addition, the proposed Rule will

assure access to medically necessary services for Chisholm Class members and Early and Periodic Screening, Diagnosis and Treatment Program eligibles. It is estimated that implementation of this Emergency Rule will increase expenditures in the Home Health Program by approximately \$5,016,573 for state fiscal year 2007-2008.

Effective for dates of service on or after July 20, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing reimbursement rates paid to home health agencies for extended nursing services.

### **Title 50**

## **PUBLIC HEALTH—MEDICAL ASSISTANCE**

### **Part XIII. Home Health**

#### **Subpart 1. Home Health Services**

#### **Chapter 7. Reimbursement Methodology**

#### **§701. Nursing and Home Health Aide Services**

A. Effective for dates of service on or after July, 20, 2007, the reimbursement rates for extended nursing services are increased as follows:

1. nurse care in home performed by a registered nurse (RN) is increased to \$34 per hour;
2. nurse care in home performed by a licensed practical nurse (LPN) is increased to \$32 per hour;
3. multiple visits—nurse care in home performed by an RN is increased to \$17 per hour; and
4. multiple visits—nurse care in home performed by an LPN is increased to \$16 per hour.

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

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

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

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

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

0707#048

## **DECLARATION OF EMERGENCY**

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

#### **Medicaid Eligibility—Disability Medicaid Program (LAC 50:III.2501)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:III.2501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative

Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Section 1902(a)(10) of Title XIX of the Social Security Act and Section 435.210 of Title 42 of the Code of Federal Regulations (CFR) provides states with the option to cover individuals under their Medicaid State Plan who are aged, blind or have a disability, and who meet the income and resource requirements for Supplemental Security Income (SSI) cash assistance. These individuals are not currently included as an eligibility category under Louisiana's Medicaid State Plan and must be referred to the Social Security Administration for assistance. Their Medicaid eligibility is contingent upon a favorable decision for SSI cash assistance. Pursuant to Section 1902(a)(10) of Title XIX of the Social Security Act and 42 CFR 435.210, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions to include this optional coverage group under the Medicaid State Plan and provide Medicaid-only services in the Disability Medicaid Program (*Louisiana Register*, Volume 33, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 20, 2007 Emergency Rule. This action is being taken to avoid imminent peril to the health and safety of certain individuals who would have to wait for a Social Security Administration decision to receive Medicaid benefits in order to obtain necessary medical care.

Effective August 19, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts provisions to provide Medicaid-only coverage to aged, blind and disabled individuals through the Disability Medicaid Program.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part III. Eligibility**

#### **Subpart 3. Eligibility Groups and Factors**

### **Chapter 25. Eligibility Groups and Medicaid Programs**

#### **§2501. Disability Medicaid Program**

A. The Disability Medicaid Program provides Medicaid-only coverage to aged, blind and disabled individuals who meet income and resource requirements for Supplemental Security Income (SSI) cash assistance.

B. Individuals receiving services in the Disability Medicaid Program will be included as an optional coverage group under the Medicaid State Plan.

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

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

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

Interested persons may submit written comments to Jerry Phillips, Department of Health and Hospitals, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge,

LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

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

0707#050

### **DECLARATION OF EMERGENCY**

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

Mental Health Rehabilitation Program  
Moratorium on Mental Health Rehabilitation Providers  
(LAC 50:XV.701)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.701 in the Medical Assistance Program as authorized by R.S.36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedures Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule to adopt a moratorium on the enrollment of mental health rehabilitation (MHR) providers to participate in the Medicaid Program (*Louisiana Register*, Volume 31, Number 3). The department now proposes to repeal the provisions of the March 20, 2005 Rule governing the moratorium on the enrollment of MHR providers. This action is being taken to avoid imminent peril to the public health, safety and welfare of Louisiana citizens who are not able to access necessary mental health services due to a critical shortage of MHR providers since Hurricanes Katrina and Rita. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$6,661,728 for state fiscal year 2007-2008.

Effective August 1, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the provisions governing the moratorium on the enrollment of MHR providers.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

#### **Subpart 1. Mental Health Rehabilitation**

### **Chapter 7. Provider Participation Requirements Subchapter A. Certification and Enrollment**

#### **§701. Provider Enrollment Moratorium**

A. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 31:668 (March 2005), amended LR 32:2069 (November 2006), repealed LR 33:

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

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

0707#049

## DECLARATION OF EMERGENCY

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

#### Targeted Case Management Nurse Family Partnership Program (LAC 50:XV.11101-11103)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.11101-11103 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing clarified the provisions governing the Nurse Family Partnership (NFP) Program by adopting all existing Rules in codified format in Title 50 of the *Louisiana Administrative Code (Louisiana Register, Volume 30, Number 5)*. The Nurse Family Partnership Program provides case management services to a targeted population group composed of first-time mothers in certain Department of Health and Hospitals (DHH) administrative regions. The bureau amended the May 20, 2004 Rule to expand the DHH administrative regions served and to amend the eligibility criteria and staffing qualifications (*Louisiana Register, Volume 31, Number 8*). The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has provided clarification that eligibility for targeted case management services is not transferable between target groups. In compliance with the CMS directive, the bureau amended the August 20, 2005 Rule to clarify that the first-time mother continues to be the focus of the NFP Program after the birth of the child (*Louisiana Register, Volume 32, Number 7*). This Emergency Rule is being promulgated to continue the provisions of the July 20, 2006 Emergency Rule. This action is being taken to avoid federal sanctions.

Effective July 18, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions of the August 20, 2005 Rule addressing the program description and recipient qualifications in the Nurse Family Partnership Program.

### Title 50

## PUBLIC HEALTH—MEDICAL ASSISTANCE

### Part XV. Services for Special Populations

#### Subpart 7. Targeted Case Management

### Chapter 111. Nurse Family Partnership Program

#### §11101. Introduction

A. Nurse Family Partnership (NFP) targeted case management is a prenatal program designed to improve the health and social functioning of Medicaid eligible first-time mothers and their babies.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 33:

#### §11103. Recipient Qualifications

A. A Medicaid recipient must not be beyond the twenty-eighth week of pregnancy and must attest that she meets one of the following definitions of a first-time mother in order to receive NFP case management services. The recipient:

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

C. Nurse Family Partnership case management services to the mother may continue up to two years after the birth of the child.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 33:

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

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

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

0707#003

## DECLARATION OF EMERGENCY

**Department of Health and Hospitals  
Office of the Secretary  
Office for Citizens with Developmental Disabilities  
Division of Long Term Supports and Services**

Home and Community Based Services Waivers  
Termination of Services for Displaced Recipients  
(LAC 50:XXI.301)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services adopts LAC 50:XXI.301 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is being promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing eligibility for home and community-based services waivers (*Louisiana Register*, Volume 24, Number 3). The Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services adopted provisions governing the termination of services and limited retention of waiver opportunities for waiver recipients displaced by Hurricanes Katrina and Rita (*Louisiana Register*, Volume 32, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 20, 2006 Emergency Rule. This action is being taken to avoid federal sanctions for failure to comply with federal requirements to assure the health and welfare of recipients of home and community-based waiver services.

Effective August 17, 2007, the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services adopts the following provisions governing the eligibility for home and community-based waiver services.

### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

### **Part XXI. Home and Community Based Services**

### **Waivers**

### **Subpart 1. General Provisions**

### **Chapter 3. Eligibility**

### **§301. Termination of Coverage for Displaced Recipients**

A. Effective July 1, 2006, waiver recipients who have been displaced by Hurricanes Katrina or Rita and are currently residing in other states will no longer be able to receive waiver services under the Louisiana Medicaid Program.

B. This termination of coverage is applicable to recipients receiving services in the following home and community-based waivers:

1. the New Opportunities Waiver;
2. Children's Choice;

3. the Elderly and Disabled Adult Waiver; and
4. the Adult Day Health Care Waiver.

C. If the individual returns to live in Louisiana on or before June 2008, he/she must contact the department to report his/her address and to request that waiver services be restarted.

D. The individual's name will be placed on a preferred registry with other hurricane evacuees who have returned to live in Louisiana and requested that their waiver services be restarted.

E. Waiver opportunities shall be offered to individuals on the preferred registry on a first come, first served basis.

1. The first available waiver opportunity shall be offered to an individual on this registry based on the date that the request to restart services was received.

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

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

Implementation of this Emergency Rule is contingent upon approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117 or Hugh Eley, Division of Long Term Supports and Services, P.O. Box 3767, Baton Rouge, LA 70821-3767. They are responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

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

0707#051

## DECLARATION OF EMERGENCY

**Department of Social Services  
Office of Community Services**

Daycare Services (LAC 67:V.2301)

The Department of Social Services, Office of Community Services, has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:V.2301, Daycare Services, effective June 12, 2007. This Emergency Rule shall remain in effect for a period of 120 days or until the publication of the final Rule, whichever occurs first. This action is necessary to extend the original Emergency Rule of February 12, 2007, which will expire before the final Rule takes effect. The final Rule will be published in August, 2007.

Emergency action is necessary in this matter in order to provide an increase in the maximum reimbursement rates to Class A Day Care Centers to bring the Office of Community Services reimbursement rates for day care services to the department level for these services.

**Title 67**  
**SOCIAL SERVICES**  
**Part V. Office of Community services**  
**Subpart 4. Family Services**

**Chapter 23. Daycare**

**§2301. Daycare Services**

A. ...

B. Class A Day Care Centers will be reimbursed for day care services at the same reimbursement rate as the Office of Family Support Child Care Assistance Program. When a center's rate is less than the maximum amount reimbursed by the department, the department reimbursement rate will be the center's usual charge for day care services.

C. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 11:689 (July 1985), amended LR 18:868 (August 1992), LR 25:2443 (December 1999), LR 31:101 (January 2005), LR 33:

Ann S. Williamson  
Secretary

0707#002

**DECLARATION OF EMERGENCY**

**Department of Social Services**  
**Office of Family Support**

TANF—Domestic Violence and Homeless Initiative  
(LAC 67:III.5509 and 5589)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to amend LAC 67:III.5509, Domestic Violence Services, and 5589, Homeless Initiative. These amendments are necessary to allow the agency to provide community collaboration training for the purpose of educating the community regarding domestic violence and the available services to victims of domestic violence provided by the agency and to clarify available services provided to the homeless. An Emergency Rule is needed for the agency to remain in compliance with federal regulations regarding Louisiana's Temporary Assistance to Needy Families (TANF) block grant. This Emergency Rule, effective, June 15, 2007, will remain in effect for a period of 120 days.

Section 5509, Domestic Violence Services, is being amended to clarify services provided to victims of domestic violence and their children. Section 5589 Homeless Initiative is being amended to clarify the definition of basic needs concerning homelessness.

The authorization for emergency actions in these matters is contained in Act 17 of the 2006 Regular Session of the Louisiana Legislature.

**Title 67**  
**SOCIAL SERVICES**

**Subpart 15. Temporary Assistance For Needy Families**  
**(TANF) Initiatives**

**Chapter 55. TANF Initiatives**

**§5509. Domestic Violence Services**

A. The Office of Family Support shall enter into Memoranda of Understanding or contracts to provide

services for victims of domestic violence and their children, including rural outreach and community collaboration training for the purpose of educating attendees about domestic violence and the available services provided by the Department of Social Services including but not limited to TANF, Food Stamps, Child Care, and Employment Training.

B. - D. ...

E. Direct services that provide for basic needs and are provided in response to an episode of need or a specific crisis situation and are non-recurrent, such as but not limited to food, clothing, and shelter assistance, will not be provided beyond four months.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1 2006 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 33:0000 (July 2007).

**§5589. Homeless Initiative**

A. Effective December 1, 2006, the Office of Family Support shall enter into contracts with public agencies, non-profit organizations, or for-profit organizations to end the cycle of homelessness in Louisiana by providing services to homeless families which include but are not limited to comprehensive case management, educational and employment opportunities for adult participants, community referrals, life skill modules, and housing options. Direct services that are provided in response to an episode of need or a specific crisis situation and are non-recurrent, such as but not limited to food, clothing, and shelter assistance, will not be provided beyond four months.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 17, 2006 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:674 (April 2007), amended LR 33:0000 (July 2007).

Ann S. Williamson  
Secretary

0707#004

**DECLARATION OF EMERGENCY**

**Department of Social Services**  
**Office of Family Support**

TANF—Jobs for America's Graduates Louisiana  
(JAGS-LA) Program (LAC 67:III.5591)

The Department of Social Services, Office of Family Support, has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act to adopt LAC 67:III:5591, Jobs for America's Graduates Louisiana (JAGS-LA) Program as a new TANF initiative. This Emergency Rule effective July 1, 2007, will remain in effect for a period of 120 days.

Pursuant to House Bill 1 of the 2007 Regular Session of the Louisiana Legislature, the agency is adopting the JAGS-LA Program to keep in school those students at risk of failing in school, to capture out-of-school youth in need of a high school education, to provide an avenue for achieving academically, and to assist students in ultimately earning

recognized credentials that will make it possible for them to exit school and enter post-secondary education and/or the workforce.

The authorization for emergency action in this matter is contained in House Bill 1 of the 2007 Regular Session of the Louisiana Legislature.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives**

**Chapter 55. TANF Initiatives**

**§5591. Jobs for America's Graduates Louisiana (JAGS-LA) Program**

A. Effective July 1, 2007, the Office of Family Support shall enter into a Memorandum of Understanding with the Department of Education for the Jobs for America's Graduates Louisiana (JAGS-LA) Program.

B. These services meet the TANF goal to prevent and reduce the incidence of out of wedlock births by providing intervention and improved life prospects for students who show evidence of failing, dropping out or engaging in negative behaviors that can lead to dependency, out-of-wedlock births, imprisonment, etc.

C. Eligibility for services is not limited to needy families, however eligible participants in the JAG-LA Program shall be 15-21 years of age and must face at least two designated barriers to success that include economic, academic, personal, environmental, or work related barriers.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; House Bill 1, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

Ann Silverberg Williamson  
Secretary

0707#019

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Shrimp Season Closure—Portion of Zone II**

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 3, 2007 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2007 Spring Inshore Shrimp Season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or if enforcement problems develop, the Secretary hereby declares:

The 2007 spring inshore shrimp season within that portion of Shrimp Management Zone 2 extending from the Atchafalaya River Ship Channel at Eugene Island as delineated by the Channel red buoy line to the western shore of Vermilion Bay and Southwest Pass at Marsh Island will close on Monday, June 25 at one-half hour before official sunrise. The remaining portion of Zone 2 and all of Zones 1 and 3 will remain open until further notice.

The State Territorial Waters south of the Inside/Outside Shrimp Line, as described in R.S. 56:495 shall also remain open to shrimping.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within that portion of Zone 2 to be closed has rapidly increased in recent weeks and the region is being closed to protect these developing shrimp.

Bryant O. Hammett, Jr.  
Secretary

0707#008

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Shrimp Season Closure—Zone II and Portion of Zone III**

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 3, 2007 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2007 Spring Inshore Shrimp Season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or if enforcement problems develop, the Secretary hereby declares:

The 2007 Spring Inshore Shrimp Season in that portion of Shrimp Management Zone 2 currently open to shrimping will close on Saturday, June 30, 2007 at 6:00 p.m. except for that portion of Zone 2 extending from a point originating along the Inside/Outside Shrimp Line as described in R.S. 56:495(A) at the western shore of Bayou Lafourche at Belle Pass at 29 degrees 05 minutes 10 seconds north latitude and 90 degrees 13 minutes 36 seconds west longitude eastward to the eastern shore of South Pass of the Mississippi River which will close on Friday, July 6, 2007 at 6:00 p.m. The 2007 Spring Inshore Shrimp Season in Shrimp Management Zone 3 will close on Saturday, June 30, 2007 at 6:00 p.m. except for that portion of Zone 3 which includes the Calcasieu Ship Channel originating at a line between Channel Markers 85 and 86 southward to a point originating along the Inside/Outside Shrimp Line at Calcasieu Pass as described in R.S. 56:495(A) and including East Pass from its origin at the Calcasieu Ship Channel to the south end of Calcasieu Lake and West Pass from its origin at the

Calcasieu Ship Channel to the south end of West Cove which will remain open until further notice. Zone 1 will remain open until further notice.

The State Territorial waters south of the Inside/Outside Shrimp Line, as described in R.S. 56:495, shall also remain open to shrimping.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within the regions to be closed has rapidly increased in recent weeks and these waters are being closed to protect these developing shrimp.

Bryant O. Hammett, Jr.  
Secretary

0707#014

### **RULE**

#### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

##### **Shrimp Season Closure—Remainder of Zone III**

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 3, 2007 which authorized the Secretary of the Department of

Wildlife and Fisheries to close the 2007 Spring Inshore Shrimp Season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or if enforcement problems develop, the secretary hereby declares:

The 2007 spring inshore shrimp season within the remainder of Shrimp Management Zone 3 currently open to shrimping which includes the Calcasieu Ship Channel originating at a line between Channel Markers 85 and 86 southward to a point originating along the inside/outside shrimp line at Calcasieu Pass as described in R.S. 56:495(A) and including East Pass from its origin at the Calcasieu Ship Channel to the south end of Calcasieu Lake and West Pass from its origin at the Calcasieu Ship Channel to the south end of West Cove will close on Saturday, July 7, at 6:00 p.m. Zone 1 will remain open until further notice.

The State Territorial waters south of the Inside/Outside Shrimp Line, as described in R.S. 56:495, shall also remain open to shrimping.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within that portion of the Calcasieu Ship Channel currently open to shrimping has rapidly increased in recent weeks and these waters are being closed to protect these developing shrimp.

Bryant O. Hammett, Jr.  
Secretary

0707#027

# Rules

## RULE

### Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.1301, 4313, 4903, and 4905)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC Part Number LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State's Accountability System is an evolving system with different components. The proposed changes occur within the following Sections of Bulletin 111:

- §1301 Reward Eligibility—changes one requirement for Exemplary Academic Growth to 2.0 points improvement in a Subgroup Assessment Index rather than growth in a Subgroup Performance Score;
- §4313 Corrective Actions—adds detail for how school districts that have been identified for District Improvement can exit Corrective Actions; and
- §4903 Local Superintendent and Board Responsibilities and §4905 Contracting and Employing a District Superintendent—both of these items concern District Academically in Crisis and together reflect the legislature's repeal of C and D only of R.S. 17:10.6, Act 687, Reg. Session 2006.

#### Title 28

#### EDUCATION

### Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System

#### Chapter 13. Rewards/Recognition

##### §1301. Reward Eligibility

A. Beginning in 2004, a school shall receive recognition and monetary awards (as appropriated by the Legislature) when it achieves a growth label of Exemplary or Recognized Academic growth. Exemplary Academic Growth (EAG) shall require, in addition to achieving the school's Growth Target, at least 2.0 points growth in every subgroup's GPS (African American, American Indian/Alaskan Native, Asian, Hispanic, White, Economically Disadvantaged, Limited English Proficient, Students with Disabilities, and All Students), and the school cannot be in any level of school improvement. Recognized Academic Growth (RAG) is earned by any school that meets its growth target, regardless of subgroup growth or school improvement status. Beginning in 2007, the Subgroup Performance Score (GPS) shall be replaced with an adjusted Subgroup Assessment Index (SAI). The SAI shall be calculated for two subgroups, the Economically Disadvantaged and the Students with Disabilities. For combination schools, the K-8 and 9-12 SAI

(Subgroup Assessment Indices) will be combined using a weighted average of eligible test takers.

NOTE: As with the GPS, a minimum of 2.0 points of growth is required in each SAI for a school to qualify for Exemplary Academic Growth. Identification for School Improvement prevents consideration for EAG.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2744 (December 2003), amended LR 30:1446 (July 2004), LR 31:1513 (July 2005), LR 33:1334 (July 2007).

#### Chapter 43. District Accountability

##### §4313. Corrective Actions

A. - E. ...

F. Districts shall exit District Improvement if they pass Subgroup AYP in the same subject for which they entered District Improvement in the same cluster for 2 consecutive years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2757 (December 2003), amended LR 30:1449 (July 2004), LR 31:424 (February 2005), LR 31:635 (March 2005), LR 31:1256 (July 2005), LR 33:1334 (July 2007).

#### Chapter 49. School District Academically in Crisis

##### §4903. Local Superintendent and Board Responsibilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:543 (April 2006), repealed LR 33:1334 (July 2007).

##### §4905. Contracting and Employing a District Superintendent

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:545 (April 2006), repealed LR 33:1334 (July 2007).

Weegie Peabody  
Executive Director

0707#005

## RULE

### Board of Elementary and Secondary Education

Bulletin 125—Standards for Educational Leaders in Louisiana (LAC 28:CXXXVII.Chapters 1-5)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted *Bulletin 125—Standards for Educational Leaders in Louisiana*. Bulletin 125 will be printed in



codified format as Part CXXXVII of the Louisiana Administrative Code. The Standards for Educational Leaders in Louisiana were created to assist local education agencies in achieving the goals of the state's School and District Accountability System to place effective administrators at every school. Educational leaders are strongly encouraged to use the standards to examine organizational structures, examine their enacted roles, and examine day-to-day operations to ensure they are leading the way for school success by keeping the focus on enhanced student achievement. In order to ensure that the goals of the state's accountability system are supported and achieved the Educational Leader Standards were created to guide and identify the knowledge, skills, performances, and dispositions of effective educational leaders. Based on current research the need for effective leadership at the school and district level has become increasingly important. Research has proven that effective leaders are an essential component in overall school improvement efforts.

**Title 28**  
**EDUCATION**

**Part CXXXVII. Bulletin 125—Standards for  
Educational Leaders in Louisiana**

**Chapter 1. Purpose**

**§101. Introduction**

A. A critical component to ensuring that the goals of the state's School and District Accountability System are achieved is the placement of effective administrators at every school. In order for this to be attained, attention must be focused on building leadership capacity at both the school and district levels. Utilizing the Standards for Educational Leaders, educational leaders are strongly encouraged to examine organizational structures, their enacted roles, and day-to-day operations to ensure they are leading the way for school success by keeping the focus on enhanced student achievement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17 and R.S.17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1335 (July 2007).

**Chapter 3. Standards**

**§301. Standard #1 Vision**

A. The educational leader engages the district/school community in developing and maintaining a student-centered vision for education which forms the basis for district/school goals and guides the preparation of students as effective, lifelong learners in a pluralistic society.

1. Knowledge and Skills

a. The educational leader has knowledge, skills, and understanding of a "preferred" future regarding the success of all students:

i. group process strategies for melding the diverse values and expectations of the district/school community into a shared understanding of desired student outcomes;

ii. theories of child and human development, the teaching-learning, and models of and best practices for on-going district/school improvement; and

iii. relevant research findings and strategies for using data to develop and maintain the district/school vision.

2. Disposition

a. The educational leader believes in, values, and commits to:

i. a focused mission/vision to improve student achievement and a vision of the elements of school, curriculum, and instructional practices that make higher achievement possible;

ii. the centrality of students to the district/school vision and goals;

iii. involving the community in establishing the district/school vision and goals;

iv. respecting the existing community cultures while working for changes that improve outcomes for all students;

v. stewardship of the district/school vision, and sponsorship of district/school goals; and

vi. enabling students to think critically about complex issues.

3. Performances

a. The educational leader demonstrates the ability to:

i. work collaboratively with the school community to establish clear goals and to keep those goals in the forefront of the school's attention;

ii. bring the district/school vision to life by using it to guide decision making about students and the instructional programs;

iii. maintain focus on developing learning experiences that will enable students to prosper in subsequent grades and as adults;

iv. maintain open communication with the community, and effectively convey high expectations for student learning to the community;

v. inspire and lead new and challenging innovations by providing opportunities and support for collaboration, the exchange of ideas, experimentation with innovative teaching strategies, and ongoing district/ school improvement;

vi. monitor, assess, and revise the district/school vision and goals as needed; and

vii. foster the integration of students into mainstream society while valuing diversity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17 and R.S.17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1335 (July 2007).

**§303. Standard #2 Teaching and Learning**

A. The educational leader uses a knowledge of teaching and learning in working collaboratively with the district/school faculty and staff to implement effective and innovative teaching practices which engage students in meaningful and challenging learning experiences.

1. Knowledge and Skills

a. The educational leader has knowledge, skills, and understanding of:

i. research and theories related to teaching, learning, curriculum development and integration, and motivation;

ii. methods for effectively communicating high expectations for all students to learn high-level content;

iii. effective instructional practices that motivate and increase student achievement;

iv. supervisory and observational techniques that promote effective teaching and learning in a growth-oriented environment;

v. authentic, psychometrically sound methods for assessing student learning; and

vi. emerging technologies and their use in enhancing student learning.

2. Dispositions

a. The educational leader believes in, values, and commits to:

i. all children's learning at high levels;

ii. excellence and life-long learning;

iii. collaborative development of teaching strategies and curricular modifications that ground student learning in real-world situations and promote critical thinking; and

iv. developing a caring environment that nurtures teaching and learning.

3. Performances

a. The educational leader demonstrates the ability to:

i. design, model, and implement effective curriculum, instruction, and assessment practices;

ii. encourage and support the use of both innovative, research-based teaching strategies to engage students actively in solving complex problems and methods of student assessment which will enhance learning for all students;

iii. conduct frequent classroom/school visits and periodic observations, provide constructive feedback to faculty and staff, and suggest models of effective teaching techniques when needed;

iv. foster a caring, growth-oriented environment for faculty and students, one in which high expectations and high standards for student achievement are emphasized; and

v. promote collaboration and team building among faculty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17 and R.S.17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1335 (July 2007).

**§305. Standard #3 School Management**

A. The educational leader promotes the success of all students by ensuring management of the organization, operations, and resources for a safe and orderly learning environment.

1. Knowledge and Skills

a. The educational leader has knowledge, skills, and understanding of:

i. organizational theory and principles of organizational development;

ii. human resources management and development, including related/support/ancillary services;

iii. local, state, and federal laws, policies, regulations, and procedures;

iv. sound fiscal procedures and practices;

v. time management to maximize the effectiveness of the organization; and

vi. current technologies that support management functions.

2. Dispositions

a. The educational leader believes in, values, and commits to:

i. creating a learning community who believes that every student counts and has the support of a caring adult;

ii. building a safe, orderly environment;

iii. upholding local, state, and federal laws, policies, regulations, and procedures, including being fiscally responsible and ensuring quality support services;

iv. upholding high standards in the day-to-day operations of the school and using current technology;

v. making management decisions to enhance teaching and learning; and

vi. involving members of the school community in shared decision-making processes.

3. Performances

a. The educational leader demonstrates the ability to:

i. establish and implement a set of standard operating procedures and routines;

ii. understand the change process and have the leadership and facilitation skills to manage it effectively;

iii. organize and use time in innovative ways to meet the goals and objectives of school improvement;

iv. maintain safe, secure, clean, and aesthetically pleasing physical school plants;

v. maintain a positive learning environment where proper student discipline is the norm;

vi. manage fiscal resources responsibly, efficiently, and effectively and monitor whether others do so as well;

vii. manage human resources responsibly by selecting and inducting new personnel appropriately, assigning and evaluating all staff effectively, and taking other appropriate steps to build an effective faculty/staff;

viii. monitor support services such as transportation, food, health, and extended care responsibly;

ix. provide and coordinate appropriate co-curricular and extra-curricular activities;

x. use shared decision making effectively in the management of district/school operations;

xi. manage time and delegate appropriate administrative tasks to maximize attainment of the district/school goals;

xii. use available technology effectively to manage operations; and

xiii. monitor and evaluate operations and use feedback appropriately to enhance effectiveness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17 and R.S.17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1336 (July 2007).

**§307. Standard #4 School Improvement**

A. The educational leader works with the district/school community to review data from multiple sources to establish challenging standards, monitor progress, and foster the continuous growth of all students.

1. Knowledge and Skills

a. The educational leader has knowledge, skills, and understanding of:

i. methods by which information from various data sources can be used to establish challenging standards for self, faculty, students, and the district/school community;

ii. strategies for monitoring progress toward reaching the standards established;

iii. research-based literature related to teaching, learning, curriculum, organizational and staff development, and change processes;

iv. the district/school culture, community expectations, and the strengths and weaknesses of self, faculty, students, and community; and

v. methods of data collection, analysis, interpretation, and program evaluation.

2. Dispositions

a. The educational leader believes in, values, and commits to:

i. empowering others by engaging in collaborative problem solving and decision making, building capacity through staff development, and encouraging divergent perspectives from the district/school community;

ii. working toward consensus and compromise among members of the district/school community, guided by the district/school vision and goals;

iii. examining one's own assumptions, practices, and beliefs in the light of new knowledge;

iv. accepting limitations and mistakes from self and others while maintaining commitment to the standards established;

v. encouraging faculty experimentation in order to maximize opportunities for all students to learn;

vi. promoting a district/school culture that values and promotes individual and collaborative reflection and learning; and

vii. recognizing and celebrating school accomplishments and acknowledging failures.

3. Performances

a. The educational leader demonstrates the ability to:

i. keep everyone informed and focused on student achievement;

ii. use data to initiate and continue improvement in student achievement;

iii. provide ongoing opportunities for staff to reflect on their roles and practices in light of student standards and district/school goals;

iv. grow professionally by engaging in professional development activities and making such activities available to others;

v. use research findings to plan district/school improvement initiatives, monitor the implementation of these changes, and evaluate their effectiveness on teaching and learning;

vi. foster the genuine continuous involvement and commitment of the district/school community in promoting the progress of all students toward attaining high standards;

vii. enhance school effectiveness through the coordination of teacher selection, induction, evaluation, and professional development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17 and R.S.17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1336 (July 2007).

**§309. Standard #5 Professional Development**

A. The educational leader works collaboratively with the district/school faculty and staff to plan and implement professional development activities that promote both individual and organizational growth and lead to improved teaching and learning.

1. Knowledge and Skills

a. The educational leader has knowledge, skills, and understanding of:

i. theories related to motivation, adult learning, and staff development;

ii. sound pedagogical practices and emerging technologies;

iii. current trends in terms of social, political and cultural influences on education;

iv. research, measurement, and assessment strategies;

v. organizational learning for district/school cultures, goal setting, change processes, and group dynamics; and

vi. resource management.

2. Dispositions

a. The educational leader believes in, values, and commits to:

i. lifelong learning for self and others;

ii. ongoing change processes;

iii. faculty expertise and collaborative work strategies; and

iv. fostering creativity and establishing high expectations in self and others.

3. Performances

a. The educational leader demonstrates the ability to:

i. communicate a focused vision for both district/school and individual professional growth;

ii. use research and data from multiple sources to design and implement professional development activities;

iii. secure the necessary resources for meaningful professional growth, including the time for planning and the use of emerging technologies;

iv. ensure that faculty and staff are aware of the most current theories and practices and makes the discussion of these a regular aspect of the district's/school's culture;

v. provide opportunities for individual and collaborative professional development;

vi. provide incentives for learning and growth and encourage participation in professional development activities at the national, state, and parish levels; and

vii. assess the overall impact of professional development activities on the improvement of teaching and student learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17 and R.S.17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1337 (July 2007).

**§311. Standard #6 School-Community Relations**

A. The educational leader uses an understanding of the culture of the community to create and sustain mutually supportive school-community relations.

1. Knowledge and Skills

a. The educational leader has knowledge, skills, and understanding of:

i. the composition of the district/school community including relevant demographic statistics and trends, competing issues and values, and available resources;

ii. successful strategies for establishing positive district/school community relations and fostering parental and community participation;

iii. techniques for promoting the positive aspects of the district/school and communicating with the media effectively; and

iv. effective interpersonal communication skills.

2. Dispositions
  - a. The educational leader believes in, values, and commits to:
    - i. establishing a partnership with the community for mutually supportive relationships;
    - ii. promoting the school/school system as an integral part of the community;
    - iii. diversity as a strength; and
    - iv. promoting the positive aspects of the district/school, celebrating successes, acknowledging the district's/school's shortcomings, and involving the community in overcoming problems within the district/school.

3. Performances
  - a. The educational leader demonstrates the ability to:
    - i. foster shared beliefs and an sense of community and cooperation;
    - ii. be visible and involved in the community and treat members of the district/school community equitably;
    - iii. involve the school(s) in the community while keeping all stakeholders informed;
    - iv. use district-/school-community resources to enhance the quality of instructional programs, including those resources available through business and industry;
    - v. recognize and celebrate educational successes publicly; and
    - vi. communicate effectively, both interpersonally and through the media.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17 and R.S.17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1337 (July 2007).

**§313. Standard #7 Professional Ethics**

A. The educational leader demonstrates honesty, integrity, and fairness to guide district/school programs in an ethical manner.

1. Knowledge and Skills
  - a. The educational leader has knowledge, skills, and understanding of:
    - i. various perspectives on ethics;
    - ii. his/her own principled convictions about what is best for students and the ethical implications of those convictions;
    - iii. relevant laws, policies, regulations, procedures and the relationship of these to protecting the rights of individuals; and
    - iv. ethical means for improving district/school programs.

2. Dispositions
  - a. The educational leader believes in, values, and commits to:
    - i. being accurate in providing information while respecting the rights of others;
    - ii. caring for the feelings of others;
    - iii. principled action in upholding the substance of laws, policies, regulations, and procedures; and

- iv. using the influence of his/her leadership constructively and productively in the service of all students.

3. Performances
  - a. The educational leader demonstrates the ability to:
    - i. model ethical behavior at both the school and community levels;
    - ii. communicate to others expectations of ethical behavior;
    - iii. respect the rights and dignity of others;
    - iv. provide accurate information without distortion and without violating the rights of others;
    - v. develop a caring school environment in collaboration with the faculty and staff;
    - vi. apply laws, policies, regulations, and procedures fairly, consistently, wisely, and compassionately;
    - vii. minimize bias in self and others and accept responsibility for his own decisions and actions; and
    - viii. address unethical behavior in self and others.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17 and R.S.17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1338 (July 2007).

**Chapter 5. Glossary**

**§501. Definitions**

*Preferred Future*—an understanding and conviction conveyed to teachers and students that opportunities available to students are not limited.

*Psychometrically Sound*—data that are valid and reliable; refers to data from tests and other forms of assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: and R.S.17: 6(A)(10) .

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1338 (July 2007).

Weegie Peabody  
Executive Director

0707#006

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.314)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §314. Extended Endorsement License (EEL). This policy allows for the issuance of an Extended Endorsement License (EEL) to individuals who hold standard Louisiana teaching certificates (Level 1, Level 2, Level 3, Type C, Type B, Type A, or Out-of-State), pass the current PRAXIS content exam(s) required for the area in which the EEL is requested, and present detailed prescriptions that identify any additional

coursework and/or exams needed to complete requirements for the area/level certification endorsement. The EEL could be renewed annually, upon completion of renewal requirements, for a maximum of three years. This license will ensure that individuals teaching in core content areas have fulfilled highly qualified requirements by passing content area examination(s) of PRAXIS.

**Title 28  
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel  
Chapter 3. Teaching Authorizations and Certifications**

**§314. Extended Endorsement License (EEL)**

A. Extended Endorsement License (EEL)—issued for one school year, renewable annually, and may be held a maximum of three years while the holder pursues certification in the content area of the license.

B. Eligibility Requirements—issued to an individual who meets the following requirements:

1. the individual holds a valid Louisiana teaching certificate of one of the following types: Level 1, Level 2, Level 3, Type A, Type B, Type C, OS; and
2. the individual has passed the current content area exam(s) appropriate for the content area in which the Extended Endorsement License is being requested; and,
3. the individual provides a detailed prescription that identifies any additional coursework or exams needed to complete the area/level certification endorsement and that is signed by the superintendent and the human resources director of the employing local education agency.

C. Renewal Requirements. Teacher must successfully complete a minimum of nine credit hours of coursework per year, applicable toward certification in the content area of the license.

1. If fewer than nine hours are required to complete the certification, then all of the remaining hours must be taken.
2. If no credit hours remain to be taken, then the individual must provide evidence of taking the required exams, a minimum of once per year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1339 (July 2007).

Weegie Peabody  
Executive Director

0707#007

**RULE**

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

Bylaws—Committee Membership (LAC 28:V.221)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its bylaws (R.S. 17:3021-3025 and R.S. 17:3048.1). (SG0783R)

**Title 28  
EDUCATION**

**Part V. Student Financial Assistance—Higher Education Loan Program**

**Chapter 2. Bylaws of the Advisory Committee to the Student Financial Assistance Commission  
Subchapter C. Membership and Officers of the Committee**

**§221. Membership**

A. The committee shall be composed of 10 members, eight of whom shall be appointed by the Louisiana Association of Student Financial Aid Administrators (LASFAC) from its membership, subject to confirmation by the Louisiana Student Financial Assistance Commission. The criteria for LASFAC's selection of members shall be defined by that organization but said criteria shall ensure that appointees adequately represent LASFAC's membership. The term of all members appointed by LASFAC and confirmed by the commission shall be for two years and members may not serve two consecutive terms, provided that beginning in 2006, a member may serve up to, but no more than, two consecutive terms if so recommended by the LASFAC President and approved by a majority of the Advisory Committee Members. Beginning in October 1997, 50 percent or four of the non-ex officio members of the committee shall be appointed annually to provide for staggered terms of the regular membership. The executive director of the Office of Student Financial Assistance shall be an ex officio, nonvoting member of the committee. The president of LASFAC shall be an ex officio, voting member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 33:1339 (July 2007).

George Badge Eldredge  
General Counsel

0707#020

**RULE**

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

Scholarship/Grant Programs—Definitions and Post Secondary Institutions Responsibilities (LAC 28:IV:301 and 1903)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1). (SG0782R)

**Title 28  
EDUCATION**

**Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs  
Chapter 3. Definitions**

**§301. Definitions**

A. ...

\* \* \*

*First-Time Freshman*—a student who is awarded TOPS opportunity, performance, or honors and enrolls for the first-time as a full-time freshman in an academic program in a post-secondary school subsequent to high school graduation, and is enrolled full-time at the end of the 14th class day or later (9th class day or later for Louisiana Tech) or enrolls for the first time, full-time in a Louisiana public community or technical college that offers a Vocational or Technical Education Certificate or Diploma Program or a non-academic undergraduate degree to pursue a skill, occupational training, or technical training subsequent to high school graduation, and is enrolled full-time at the end of the 14th class day or later (9th class day or later for term and quarter institutions). A student who is awarded TOPS opportunity, performance, or honors and begins in an academic program in a post-secondary college or university in a summer session will be considered a first-time freshman for the immediately succeeding fall term. A student who is awarded TOPS opportunity, performance, or honors and begins in a non-academic program in a post-secondary school in a summer term will be considered a first-time freshman at the time of such enrollment. The fact that a student enrolls in a post-secondary school prior to graduation from high school and/or enrolls less than full time in a post-secondary school prior to the required date for full time enrollment shall not preclude the student from being a first-time freshman.

\* \* \*

*Full-Time Student*—

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

b. for continuation purposes, a student must be enrolled full-time at the end of the 14th class day or later at a semester school or the 9th class day or later at a quarter or term school;

c. for continuation purposes, a student is considered to have met the full-time requirement if by the completion of the academic year he has earned at least 24 hours of total credit as reported by the institution for the fall and spring semesters at institutions defining 12 semester hours as the minimum for standing as a full-time undergraduate or as reported by the institution for the fall, winter and spring quarters at institutions defining eight quarter hours as the minimum for standing as a full-time undergraduate. For purposes of TOPS and except where specified otherwise within these rules, a student shall be credited for hours earned as reported by the institution which the student attends in accordance with that institution's published policies. Students should be aware that these policies may differ depending on the school the student attends (see §§705.A, 705.D, 805.A, and 907.A for more expanded TOPS requirements);

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

e. a student enrolled in two or more institutions of higher education when such multiple enrollment is necessary for the student to gain access to the courses required for completion of the degree in the chosen discipline and where the total number of hours earned at all institutions during the

academic year is the equivalent of carrying a full-time academic workload as determined by the institution which will award the degree;

f. correspondence courses may not be used to establish full time status.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), repromulgated LR 27:1842 (November 2001), amended LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007).

**Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions**

**§1903. Responsibilities of Post-Secondary Institutions**

A. - B.1. ...

2. institutions will bill LASFAC based on their certification that the recipient of a TOPS Award or a GO-Youth ChalleNGe Program Grant is enrolled full-time, as defined in §301, at the end of the 14th class day or later for semester schools and the 9th class day or later for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the full summer session. Institutions shall not bill for students who are enrolled less than full-time at the end of the 14th class day for semester schools or the 9th class day for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the summer session, unless the student qualifies for payment for less than full-time enrollment as defined in §2103.C. Students failing to meet the full-time enrollment requirement are responsible for reimbursing the institution for any awards received. Refunds of awards to students who are not receiving federal Title IV aid, for less than full-time enrollment after the 14th or 9th class day, as applicable, shall be returned to the state. Refunds to students who are receiving federal Title IV aid shall be refunded to the state in accordance with the institution's federal Title IV aid refund procedures;

B.3. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, 17:3041.10-3041.15, 17:3041.21-3041.26 and R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June

George Badge Eldredge  
General Counsel

0707#034

## RULE

### Department of Environmental Quality Office of the Secretary Legal Affairs Division

#### Permit Application Review Timeline (LAC 33:I.1501, 1503, and 1505)(OS075)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Office of the Secretary regulations, LAC 33:I.1501, 1503, and 1505 (Log #OS075).

This Rule reduces the time frame for environmental permit application administrative completeness reviews from 110 days to 60 days. This Rule also reduces the time for making a final decision on permit applications from 410 days to 300 days. Definitions have been added to provide the applicant with more detail regarding the application review process, and provisions have been added to correct incompleteness in permit applications and for suspension of applications pending such supplemental information. This Rule implements Act 117 of the 2006 Regular Session of the Louisiana Legislature, which revised these time frames. The basis and rationale for this Rule are to incorporate into the regulations the statutory revisions enacted by Act 117.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

### Title 33

### ENVIRONMENTAL QUALITY

#### Part I. Office of the Secretary

#### Subpart 1. Departmental Administrative Procedures

#### Chapter 15. Permit Application Review

#### §1501. Applicability

A. This Chapter applies to permit applications for new facilities and to applications for substantial permit modifications submitted to the department after the rule's effective date (date of publication in the *Louisiana Register*).

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:487 (April 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1341 (July 2007).

#### §1503. Definitions

A. For all purposes of this regulation, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

*Administratively Complete*—in reference to an application for a permit, that the application contains all of

the information necessary for the administrative processing of the application. Designating an application administratively complete for purposes of permit processing does not preclude the administrative authority from requesting or accepting any additional information. Required application information submitted under separate cover or separately from the application shall cause the administrative completeness determination to be delayed until such information is received, processed, and verified along with the other application information.

*Complete*—repealed.

\* \* \*

*Extraordinary Public Response*—that situation that exists where the quality and/or quantity of comments that are relevant and material to the permit are such as to necessitate additional time for department review.

*Final Decision*—action taken by the administrative authority to issue, deny, modify, revoke and reissue, or terminate a permit.

*New Facility*—a pollution source (including all emission points and units of the source located within a contiguous area and under common control) or any public or private property where an activity required to be permitted by the department has not yet commenced.

*Processing Day*—except as otherwise provided herein, a day during which an application is available to the department for review and decision in the permit decision development process. Non-processing days include, but are not limited to, any day the department:

- a. awaits from the applicant requested information that revises or supplements administrative or technical information or deficiencies in the application; or
- b. reviews the following information from the applicant, not to exceed 60 days per submittal:
  - i. department-requested information; or
  - ii. application revisions or additional information unsolicited by the department.

*Substantial Permit Modification*—a change that substantially alters the permitted facility or its operation as follows:

- a. for a hazardous waste permit, any Class 3 modification listed in LAC 33:V.322 or otherwise described in LAC 33:V.321.C.4;
- b. for a solid waste permit, any modification listed in LAC 33:VII.517.A.2.a, or otherwise determined by the administrative authority to warrant public notice;
- c. for a Louisiana Pollutant Discharge Elimination System (LPDES) permit, any modification not processed as a minor modification under LAC 33:IX.2905; and
- d. for an air quality permit, any modification that results in a significant increase in the amount of any regulated pollutant or results in the significant emission of any air pollutant not previously emitted.

*Suspended Application*—a permit application that is not eligible to be processed for a permit decision because administrative or technical information requested by the department has not been submitted by the applicant within the time period specified by the department. An application deemed suspended, if not denied, may be reinstated if the requested information is submitted to, and found to be adequate by, the department within six months from date of

application suspension. In addition, the department may require the applicant to submit an updated application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:487 (April 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1341 (July 2007).

### **§1505. Review of Permit Applications for New Facilities and Substantial Permit Modifications**

#### **A. Administrative Completeness Review**

1. After receipt of a permit application for a new facility or an application for a substantial permit modification, the department shall perform an administrative completeness review and, if applicable, submit written notification to the applicant that lists the application's specific administrative deficiencies or additional information needed for application processing. Permit application forms and checklists of required information in the permit application review process shall be provided to the applicant upon request.

2. The applicant shall respond to the notice of deficiency or the request for additional information within the amount of time specified in the notice or request. This response shall contain all of the information required by the department to proceed with processing the application, unless otherwise provided for in Subsection E of this Section.

3. Within 60 processing days from the date a permit application is submitted, the department shall:

- a. issue a letter of administrative completeness; or
- b. notify the applicant that the application has been suspended because the required administrative information has not been received within the amount of time specified by the department.

4. The applicant's failure to address an application deemed suspended may result in a permit denial, based on an incomplete application.

5. Within 30 days after receipt of a letter of administrative completeness, the applicant shall publish a notice, provided by the department, of the administrative completeness determination in a major local newspaper of general circulation and submit proof of publication to the Office of Environmental Services, Air Permits Division, Water Permits Division, or Waste Permits Division.

6. The requirement for publication of a notice of administrative completeness may be waived for applications for air quality permits for sources not defined as major in LAC 33:III.502 or 5103.

7. The requirement for publication of a notice of administrative completeness may be waived for applications for water quality permits for sources defined as minor by the administrative authority.

#### **B. Technical Review**

1. If at any time during the application review process the application is found to contain technical deficiencies, or if additional information is needed to correct or clarify the application, the department shall provide a written notice or request to the applicant and require a response within a specified time.

2. The applicant shall respond to the notice of technical deficiency or request for additional information

within the time specified in the notice or request. This response shall be deemed adequate only if it contains all of the information specified in the notice of technical deficiency or request for additional information as required by the department to complete the review of the application.

3. If the applicant does not supply the required information within the time period specified in the notice of technical deficiency or request for additional information, the department may notify the applicant that the application has been suspended because the required information has not been received within the amount of time specified by the department.

4. The applicant's failure to address an application deemed suspended may result in a permit denial, based on an incomplete application.

5. Applications undergoing technical review shall not be subject to rule changes that occur during the technical review unless such changes are made in accordance with R.S. 49:953(B)(1) or are required by federal law or regulation to be incorporated prior to permit issuance. However, such a rule change made prior to the issuance of the permit may constitute grounds for a modification of the final permit.

#### **C. Final Decision**

1. The secretary or his designee shall issue a final decision within 300 processing days from the submission date of the application.

2. The 300-processing-day deadline shall be extended where additional time is required:

a. for the applicant to revise or supplement the application to address technical information or deficiencies in the application;

b. for adjudicatory or judicial proceedings under R.S. 30:2024;

c. for required review by the United States Environmental Protection Agency; or

d. for consideration of comments received at a public hearing in the case of an extraordinary public response, however in no case shall the extension for consideration of comments exceed 45 days.

D. Exceptions. Notwithstanding any other provisions of this Chapter to the contrary, the following requirements shall pertain to all applications for permits relating to oil and gas wells and pipelines.

1. Within 14 workdays after submittal of a permit application, the department shall perform an administrative completeness review and make a determination as follows.

a. If the application is deemed administratively complete, the department shall issue notification of the administrative completeness determination to the applicant.

b. If the application is not deemed administratively complete, the department shall notify the applicant in writing and provide a list of the application's specific administrative deficiencies. This notice shall specify the date by which the administrative information is to be submitted.

2. If, during the technical review, additional information is needed, the department shall notify the applicant in writing and shall specify the date by which the information is to be submitted.

3. If the applicant does not submit the required administrative or technical information within the specified time period as requested by the department, the department



may notify the applicant that the application has been suspended because the required information has not been received within the amount of time specified by the department.

4. The applicant's failure to address an application deemed suspended may result in a permit denial, based on an incomplete application.

5. Within 60 processing days after a permit application has been submitted to the department, the secretary or his designee shall issue a final decision to grant or to deny the permit.

6. In the event of a permit denial, the secretary or his designee shall provide written reasons for the decision to all parties.

7. If the secretary or his designee does not grant or deny the permit within the time period provided for herein, the applicant may file a rule as provided for in R.S. 49:962.1.

E. Extensions. Any deadline established by this Section may be extended. A request for an extension of any deadline shall be submitted in writing by the permit applicant or by the secretary or his designee. The request shall specify the reasons and any special conditions that support a deadline extension. Written responses to all extension requests shall be submitted to the requestor within 10 days of receipt of the request.

F. Withdrawal of Permit Application

1. An applicant may voluntarily withdraw an application during the review process, without prejudice, provided notice of withdrawal is submitted to the Office of Environmental Services, Air Permits Division, Water Permits Division, or Waste Permits Division, in writing with the appropriate signatory authority, and:

a. the applicant has voluntarily submitted an application for a new facility and such an application is not required other than to gain permission to operate; or

b. the applicant has voluntarily submitted an application to modify an existing permit and such a permit modification would not be required other than to operate in a different manner.

2. Following withdrawal, any subsequent submission will be considered a new application.

3. Following withdrawal, the requirements of this Chapter will be reinitiated upon the submittal of a new application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:487 (April 1993), repromulgated LR 19:742 (June 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2441 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2433 (October 2005), LR 33:1342 (July 2007).

Herman Robinson, CPM  
Executive Counsel

0707#015

**RULE**

**Firefighters' Pension and Relief Fund  
for the City of New Orleans and Vicinity**

Annual Leave (LAC 58:V.1305)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(F), has amended LAC 58:V.1305. The amended Rule expands the basis upon which a member of the fund can opt to convert annual leave to obtain additional pension credits.

All currently stated rules of the board, unless amended herein, shall remain in full force and effect.

**Title 58**

**RETIREMENT**

**Part V. Firefighters' Pension and Relief Fund for the  
City of New Orleans and Vicinity**

**Chapter 13. Service Credit**

**§1305. Sick and Annual Leave**

A. A member may elect to utilize any sick and annual leave he has accrued for purposes of obtaining additional pension credits.

B. A member may also elect at any time prior to retirement to utilize annual leave in excess of the "use it or lose it" leave limitations established by rules of the New Orleans City Civil Service Commission during any period of time allowed by City Civil Service Commission action for the "rolling over" of such excess annual leave to avoid forfeiture. Such excess leave may be used to obtain additional pension credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 26:293 (February 2000), amended LR 33:1343 (July 2007).

Louis L. Robein, Jr.  
Fund Counsel

0707#026

**RULE**

**Department of Health and Hospitals  
Board of Medical Examiners**

Restricted Licensure and Permits  
(LAC 46:XLV.402, 403, and 405)

In accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by the Louisiana Medical Practice Act, R.S. 37:1261-1292 has amended its rules governing the licensure of physicians LAC 46:XLV, Subpart 2, Chapter 3, §§402, 403 and 405. The amendments will facilitate the processing of restricted

provisional temporary permits by eliminating delays, costs, and other administrative burdens attendant to the processing and issuance of restricted provisional temporary permits for: visiting physicians, who are invited by Louisiana licensed physicians to assist in the evaluation, diagnosis and/or treatment of specific patients in this state who require their expertise; for visiting professors who are invited by a medical school or other accredited medical institution to provide graduate medical education or instruction to Louisiana physicians and graduate medical students who will benefit from their training in this state; and for physicians serving in a preceptorship or enrolled in short-term post-graduate medical residency training program in a medical school or other accredited institution in this state, by allowing the board to forgo collecting and processing criminal history record information, eliminating the need for a personal appearance, and facilitating the board's use of electronic technology for processing forms, applications, and verifications of licensure status in other states. With respect to visiting physicians and visiting professors, who provide a valuable service to the citizens of this state by attending to Louisiana patients and educating Louisiana physicians, the amendments also allow the board to waive the fee for the approximate 20-30 anticipated number of annual applicants for these categories of restricted temporary permits.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XLV. Medical Professions**

#### **Subpart 2. Licensure and Certification**

#### **Chapter 3. Physicians**

#### **Subchapter H. Restricted Licensure, Permits**

#### **§402. Provisional Temporary Permit Pending Results of Criminal History Record Information**

A. - C. ...

D. The board may waive the procedures and requirements for submitting, requesting and obtaining criminal history record information, specified in §402.A, for a non-renewable provisional temporary permit issued under this Subchapter that is effective for not more than 90 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1275 and R.S. 37:1277, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 27:843 (June 2001), amended LR 33:1344 (July 2007).

#### **§403. Visiting Physician Permits**

A. - A.2.b. ...

c. a written recommendation by a physician licensed under this Chapter attesting to the professional qualifications of the visiting physician assuming responsibility for his professional activities and patient care, and specifying when and where such activities or care will be provided.

3. Repealed.

B. The board may issue a visiting professor temporary permit to an applicant physician who is invited by an accredited medical school or other accredited medical institution within the state of Louisiana approved by the board to serve on the faculty of the medical school or institution, provided that such invited physician:

1. - 2.a. ...

b. a completed application on forms furnished by the board;

c. verification satisfactory to the board that the applicant holds a current unrestricted license to practice medicine issued by the medical or osteopathic licensing authority of another state;

d. an original letter of invitation from the dean of the medical school, the head of an accredited medical institution, or the director of the educational program sponsoring the activity; and

e. verification satisfactory to the board that the applicant is currently certified by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Osteopathic Association (AOA) in the subject area of the proposed educational program.

3. Repealed.

C. The board may issue a foreign exchange visiting professor temporary permit to an applicant physician who is invited by an accredited medical school or other accredited medical institution within the state of Louisiana approved by the board to participate in an exchange of faculty between the applicant's medical school and a medical school or other accredited medical institution within the state of Louisiana approved by the board, provided that such invited physician:

1. - 2.b. ...

c. a completed application on forms furnished by the board;

d. ...

e. an original letter of invitation from the dean of the medical school, the head of an accredited medical institution, or the director of the educational program sponsoring the activity.

3. Repealed.

D. - F. ...

G. The term *accredited medical institution*, as used in this Subchapter, means an institution that sponsors one or more educational programs in the relevant subject area of post-graduate medical training that is accredited by the Accreditation Council of Graduate Medical Education (ACGME).

H. The term *visiting professor* as used in this Subchapter, shall apply to visiting physicians who are invited by a medical school or an accredited medical institution approved by the board to serve as instructors in the proposed educational program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1275, R.S. 37:1277, R.S. 37:1278, R.S. 37:1281 and R.S. 37:1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:913 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:520 (June 1990), LR 27:843 (June 2001), LR 33:1344 (July 2007).

#### **§405. Short-Term Residency Permit**

A. - A.5. ...

B. The board may, in its discretion, issue a temporary permit for the purpose of serving a preceptorship or participating in a short-term residency program conducted by a Louisiana medical school or other accredited medical institution to an applicant who possesses the qualifications for licensure prescribed by §311.A.1-5, who is currently enrolled and in good standing in an accredited graduate medical education program and who possesses a current unrestricted license to practice medicine or engage in medical training duly issued by any state and provided that:

1. - 2.a. ...
  - b. satisfactory documentation that the applicant possesses the qualifications required by this Section; and
  - c. a letter from the physician under whom he will be serving in the preceptorship or short-term residency, describing the capacity in which the applicant will be serving and the inclusive dates of such service.

3. Repealed.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1275, R.S. 37:1277, R.S. 37:1281 and R.S. 37:1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:913 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:521 (June 1990), LR 27:845 (June 2001), LR 33:1344 (July 2007).

Robert L. Marier, M.D.  
Executive Director

0707#025

**RULE**

**Department of Health and Hospitals  
Board of Pharmacy**

**Prescription Monitoring Program  
(LAC 46:LIII.Chapters 29 and 33)**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has adopted a new chapter of regulations relative to the Prescription Monitoring Program. This program was authorized by Act 676 of the 2006 Louisiana Legislature. Further, the board has re-designated the current Chapter 29, Severability as Chapter 33, Severability, with no changes to the contents of that Chapter.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LIII. Pharmacists**

**Chapter 29. Prescription Monitoring Program**

**Subchapter A. General Operations**

**§2901. Definitions**

A. As used in this Chapter, the following terms shall have the meaning ascribed to them unless the context clearly indicates otherwise.

*Administer* or *Administration*—the direct application of a drug to the body of a patient by injection, inhalation, ingestion, or any other means.

*Advisory Council*—the entity established in R.S. 40:1005.

*Board*—the Louisiana Board of Pharmacy.

*Controlled Substance*—any substance or drug defined, enumerated, or included in federal or state statute or rules, 21 CFR 1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations or statute. *Controlled substance* shall not include distilled spirits, wine, malt beverages, or tobacco.

*Dispense* or *Dispensing*—the interpretation, evaluation, and implementation of a prescription drug order, including

the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient.

*Dispenser*—a person authorized by this state to dispense or distribute to the ultimate user any controlled substance or drug monitored by the program, but shall not include any of the following:

a. a pharmacy permitted by the board as a hospital pharmacy that dispenses or distributes any controlled substance or drug monitored by the program for the purposes of inpatient health care;

b. a practitioner who dispenses or distributes no more than a single 48 hour supply of such controlled substance or drug to a patient prior to, or subsequent to, performing an actual procedure on that patient;

c. practitioner or other authorized person who administers such controlled substance or drug upon the lawful order of a practitioner;

d. a wholesale distributor of such controlled substance or drug that is credentialed by the Louisiana State Board of Wholesale Drug Distributors.

*Distribute* or *Distribution*—the delivery of a drug or device other than by administering or dispensing.

*Drug*—any of the following:

a. any substance recognized as a drug in the official compendium, or supplement thereto, designated by the board for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

b. any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals;

c. any substance other than food intended to affect the structure or any function of the body of humans or other animals.

*Drugs of Concern*—drugs other than controlled substances as defined by rule which demonstrate a potential for abuse.

*Patient*—the person or animal who is the ultimate user of a controlled substance or drug monitored by the program for whom a prescription is issued and for whom a controlled substance or drug is dispensed.

*Prescriber*—a licensed health care professional with prescriptive authority.

*Prescription Monitoring Information*—data submitted to and maintained by the prescription monitoring program.

*Prescription Monitoring Program* or *PMP*—the program established in R.S. 40:1004.

*Procedure*—any dental or medical practice or process described in the current year's version of the American Dental Association's *Current Dental Terminology* or the American Medical Association's *Code of Procedural Terminology*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1345 (July 2007).

**§2903. Authority for Program Operation**

A. The board shall establish and maintain, in consultation with and upon the recommendation of the advisory council, an electronic system for the monitoring of controlled substances and drugs of concern dispensed in the state or dispensed to an address in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1004.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1345 (July 2007).

#### **§2905. Authority to Engage Staff**

A. The board shall have the authority to engage a program director and sufficient number of other personnel as may be necessary to accomplish the mission of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1179.F.(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007).

#### **§2907. Authority to Contract with Vendors**

A. The board shall have the authority to engage vendors to facilitate the collection of the prescription monitoring program data and to facilitate access to the program data by authorized users.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1012.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007).

#### **§2909. Advisory Council**

A. The advisory council shall consist of the following members, each of whom may appoint a designee:

1. the President of the Louisiana State Board of Medical Examiners;
2. the President of the Louisiana State Board of Dentistry;
3. the President of the Louisiana State Board of Nursing;
4. the President of the Louisiana State Board of Optometry Examiners;
5. the President of the Louisiana State Board of Examiners of Psychologists;
6. the President of the Louisiana Academy of Physician Assistants;
7. the President of the Louisiana Board of Pharmacy;
8. the Superintendent of the Louisiana State Police;
9. the Administrator of the United States Drug Enforcement Administration;
10. the Speaker of the Louisiana House of Representatives;
11. the President of the Louisiana Senate;
12. the Chairman of the House Committee on Health and Welfare;
13. the Chairman of the Senate Committee on Health and Welfare;
14. the Secretary of the Department of Health and Hospitals;
15. the President of the Louisiana State Medical Society;
16. the President of the Louisiana Dental Association;
17. the President of the Louisiana Association of Nurse Practitioners;
18. the President of the Optometry Association of Louisiana;
19. the President of the Louisiana Pharmacists Association;
20. the President of the Louisiana Independent Pharmacies Association;
21. the President of the National Association of Chain Drug Stores;
22. the President of the Louisiana Sheriffs' Association;

23. the President of the Louisiana District Attorneys Association;

24. the President of the Pharmaceutical Research and Manufacturers of America;

25. the President of the Louisiana Academy of Medical Psychologists.

B. The members of the advisory council shall serve at the pleasure of their respective appointing authorities, 11 of whom shall constitute a quorum for the transaction of business. The members shall elect a chairman and vice chairman whose duties shall be established by the advisory council. The board shall fix a time and place for regular meetings of the advisory council, which shall meet at least quarterly. The advisory council shall establish policies and procedures necessary to carry out its duties.

C. The board shall seek, and the advisory council shall provide, information and advice regarding the development and operation of the electronic monitoring system, including but not limited to the following:

1. which controlled substances should be monitored;
2. which drugs of concern demonstrate a potential for abuse and should be monitored;
3. design and implementation of educational courses identified in R.S. 40:1008;
4. the methodology to be used for analysis and interpretation of prescription monitoring information;
5. design and implementation of a program evaluation component;
6. identification of potential additional members to the advisory council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1005.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007).

#### **Subchapter B. Data Collection**

##### **§2911. Reporting of Prescription Monitoring Information**

A. Each dispenser shall submit to the board information regarding each prescription dispensed for a controlled substance.

B. Each dispenser shall submit the required information by electronic means on a frequency set by the board, which shall be no less than every 14 days and no more than every seven days.

C. If the dispenser is unable to submit prescription information by electronic means, he may apply to the board for a waiver. The board may grant a waiver to that requirement; if so, the waiver shall state the format and frequency with which the dispenser shall submit the required information. The waiver shall expire one year after the date of issue, unless terminated sooner by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007).

##### **§2913. Required Data Elements**

A. The information submitted for each prescription shall include data relative to the identification of the following elements of the transaction, or alternate data as identified in the board's program user manual. To the extent possible, the data shall be transmitted in the format established by the American Society for Automation in Pharmacy (ASAP)

Telecommunications Format for Controlled Substances in May 1995.

1. Prescriber Information:
  - a. name of prescriber;
  - b. address of prescriber;
  - c. telephone number of prescriber;
  - d. United States Drug Enforcement Administration (DEA) registration number.
2. Patient information:
  - a. name of patient;
  - b. address of patient;
  - c. date of birth of patient;
  - d. identification number of patient.
3. Prescription information:
  - a. identification number of prescription;
  - b. date of issuance;
  - c. date of fulfillment;
  - d. number of refills authorized on original prescription;
  - e. method of payment for prescription (cash, insurance, or government subsidy).
4. Drug information:
  - a. National Drug Code (NDC) number;
  - b. name of drug;
  - c. dosage form of drug;
  - d. strength of drug;
  - e. quantity dispensed.
5. Dispenser information:
  - a. name of pharmacy or dispensing practitioner;
  - b. address of dispenser;
  - c. telephone number of dispenser;
  - d. DEA registration number;
  - e. national practitioner identification number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007).

#### **§2915. Failure to Report Prescription Information**

A. A dispenser who fails to submit prescription monitoring information to the board as required shall be referred to the appropriate professional licensing, certification, or regulatory agency for administrative sanctions as deemed appropriate by that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1347 (July 2007).

#### **Subchapter C. Access to Prescription Monitoring Information**

##### **§2917. Authorized Direct Access Users of Prescription Monitoring Information**

A. The following persons may access prescription monitoring information in the same or similar manner, and for the same or similar purposes, as those persons are authorized to access similar protected health information under federal and state law and regulation:

1. persons authorized to prescribe or dispense controlled substances or drugs of concern, for the purpose of providing medical or pharmaceutical care for their patients;
2. designated representatives from the professional licensing, certification, or regulatory agencies charged with administrative oversight of those professionals engaged in

the prescribing or dispensing of controlled substances or other drugs of concern;

3. designated representatives from the Louisiana Medicaid program regarding Medicaid program recipients;

4. designated representatives of the board or any vendor or contractor establishing or maintaining the prescription monitoring program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1347 (July 2007).

#### **§2919. Registration Procedures for Authorized Direct Access Users**

A. Authorized users of prescription monitoring information shall comply with the following requirements to register with the board, in order to receive the appropriate credentials to access prescription monitoring information.

1. The applicant shall successfully complete the program's orientation course, and attach evidence of same to his application to the program.

2. The applicant shall file an application with the program, using the form supplied by the program for that purpose.

3. The board shall verify the practitioner applicant is in possession of a valid license to prescribe or dispense controlled substances, or in the case of an agency applicant, the board shall verify agency representation.

4. Upon verification of all requirements, the board shall issue the appropriate credential necessary to access prescription monitoring information.

5. Upon receipt of information that an authorized user no longer possesses authority to prescribe or dispense controlled substances, the program shall terminate the user's credentials to access prescription monitoring information. If or when the user's authority to prescribe or dispense controlled substances is reinstated, the program may reinstate the user's credentials to access prescription monitoring information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1347 (July 2007).

#### **§2921. Methods of Access to Prescription Monitoring Information**

A. Prescribers and dispensers, once properly registered, may solicit prescription monitoring information from the program concerning their patients. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

B. Designated representatives from agencies charged with administrative oversight of prescribers and dispensers of controlled substances may solicit prescription monitoring information from the program concerning specific investigations of prescribers or dispensers. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

C. Designated representatives of the Louisiana Medicaid program, once properly registered, may solicit prescription monitoring information from the program concerning specific recipients. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

D. Designated representatives of the board, or any vendor or contractor establishing or maintaining the program, once properly registered, may solicit prescription monitoring information from the program for the purpose of establishing or maintaining the program's database.

E. Upon receipt of one of the following methods of application by local, state, or federal law enforcement or prosecutorial officials, the program may provide prescription monitoring information:

1. a court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;

2. a grand jury subpoena; or

3. an administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided by law enforcement to the board, and further, provided all of the following:

a. the information sought is relevant and material to a legitimate law enforcement inquiry;

b. the request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought;

c. de-identified information, or limited information that does not identify or could not reasonably lead to the identification of an individual patient, could not reasonably be used.

F. Individuals may solicit their own prescription monitoring information from the program. To prevent inappropriate access to such information, the requestor shall personally appear at the program office and produce positive photo identification at the time of their request. The program shall furnish a single copy of the report responding to such request at no charge to the individual.

G. Program personnel, once properly registered, may solicit prescription monitoring information from the program's database for the purpose of responding to legitimate inquiries from authorized users or other individuals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1347 (July 2007).

#### **§2923. Unlawful Use or Disclosure of Prescription Monitoring Information**

A. If the program receives evidence of inappropriate or unlawful use or disclosure of prescription monitoring information by an authorized user, the program shall refer that user to the appropriate professional licensing, certification, or regulatory agency for administrative sanctions as deemed appropriate by that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1348 (July 2007).

#### **Subchapter D. Reports**

##### **§2925. Release of Prescription Monitoring Information to Other Entities**

A. The program shall provide prescription monitoring information to public or private entities, whether located in or outside of the state, for public research, policy, or educational purposes, but only after removing information

that identifies or could reasonably be used to identify individual patients or persons who received prescriptions from prescribers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1348 (July 2007).

#### **§2927. Legislative Oversight**

A. The board shall report to the appropriate legislative oversight committee on a periodic basis, but in no case less than annually, the cost benefits and other information relevant to policy, research, and education involving controlled substances and other drugs of concern monitored by the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1348 (July 2007).

#### **§2929. Program Evaluation**

A. The board shall, in consultation with and upon recommendation of the advisory council, design and implement an evaluation component to identify cost benefits of the prescription monitoring program and other information relevant to policy, research, and education involving controlled substances and drug monitored by the prescription monitoring program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1348 (July 2007).

#### **Subchapter E. Exemptions**

##### **§2931. Exemptions**

A. A veterinarian licensed by the Louisiana Board of Veterinary Medicine who dispenses, administers, and/or prescribes a controlled substance or drug to a client/patient within the scope of his practice is exempt from the provisions of the prescription monitoring program as defined in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1348 (July 2007).

#### **Chapter 33. Severability**

##### **§3301. Severability**

A. In the event any rule, sentence, clause, or phrase or any of these rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof, and such remaining rules or portions thereof shall remain of full force and effect, as if such rule or portions thereof so determined, declared, or adjudged invalid or unconstitutional were not originally a part hereof. It is the intent of the Louisiana Board of Pharmacy to establish rules and regulations that are constitutional and enforceable so as to safeguard the health, safety, and welfare of the people of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2114 (October

Malcolm J. Broussard  
Executive Director

0707#033

## RULE

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

#### Nursing Facilities—Reimbursement Methodology Fair Rental Value, Property Tax and Property Insurance Payments (LAC 50:VII.1312)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts §1312 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part VII. Long Term Care Services

#### Subpart 1. Nursing Facilities

#### Chapter 13. Reimbursement Methodology

#### §1312. Additional Fair Rental Value, Property Tax and Property Insurance Payments

A. On or after July 20, 2007, a Louisiana Medicaid participating nursing facility [buyer(s)] that purchases and closes an existing Louisiana Medicaid participating nursing facility (seller) will be eligible to receive additional fair rental value, property tax and property insurance payments for five years after the legal transfer of ownership and closure of the seller's nursing facility.

B. Qualifying Buyer(s). In order for the buying facility to qualify for the additional payments in §1312.C, the following conditions must be met.

1. The buyer(s) must close the purchased nursing facility (seller) within 90 days after the legal transfer of ownership.

2. After closing the facility, all buyers must permanently surrender their interest in the seller's bed license and the Facility Need Review bed approvals to the state.

3. The buyer(s) must be a certified nursing facility at the time of purchase and continue their Medicaid participation throughout the entire five year payment period.

a. A change in ownership of a buyer facility will not be considered a break in Medicaid participation provided that the new owner of the nursing facility continues to participate in the Medicaid Program as a certified nursing facility.

4. The buyer(s) must provide the following information in writing to the department within 30 days after the legal transfer of ownership:

- a. a list of all buyers;
- b. a list of all sellers;
- c. the date of the legal transfer of ownership; and

d. each buyer's percentage share of the purchased facility.

5. The buyer(s) must provide the following information in writing to the department within 110 days after the legal transfer of ownership:

a. a list of the nursing facility residents that transferred from the seller facility and were residents of the buyer facility as of 90 days after the legal transfer of ownership date; and

b. the date that the seller's facility was officially closed and no longer operating as a nursing facility.

C. The buyer's Medicaid payment determinations will be as follows.

1. Buyer's Additional Fair Rental Value Payments. Each buyer's additional fair rental value payment will be calculated as the seller's annual Medicaid fair rental value payment multiplied by each buyer's reported percentage share in the purchase of the seller. The seller's annual Medicaid fair rental value payment will be calculated as the seller's most recent fair rental value per diem as determined under §1305.D.3.b.iii multiplied by the total Medicaid days reported on the seller's most recent base year cost report as determined in §1305.B.

2. Buyer's Additional Property Tax and Insurance Payments. Each buyer's additional property tax and insurance payment will be calculated as the seller's annual Medicaid property tax and insurance payment multiplied by each buyer's reported percentage share in the purchase of the seller. The seller's annual Medicaid property tax and insurance pass-through payment will be calculated as the seller's most recent property tax and insurance per diem as determined under §1305.D.4.a multiplied by the total Medicaid days reported on the seller's most recent base year cost report as determined in §1305.B.

3. Re-Base of Buyers' Fair Rental Value, Property Tax, and Property Insurance per Diems. All buyers will have their fair rental value, property tax, and property insurance per diems re-based using the number of residents reported by each buyer under §1312.B.5.a. The calculation will be as follows.

a. The number of total resident days used in the calculation of each buyer's current fair rental value per diem under §1305.D.3.b.iii will be increased by the number of residents the buyer reported under §1312.B.5.a multiplied by the number of current calendar year days.

b. The number of total resident days used in the calculation of each buyer's current pass through property tax and insurance per diem under §1305.D.4.a will be increased by the number of residents the buyer reported under §1312.B.5.a multiplied by the number of calendar days included in the buyer's most recent base-year cost report.

c. The resident day adjustment to each buyer's fair rental value, property tax, and property insurance per diem will continue until the buyer's base-year cost report, as defined under §1305.B, includes a full 12 months of resident day data following the closure of the acquired facility (seller). If a buyer's base year cost report overlaps the closure date of the acquired facility, a proportional adjustment to that buyer's resident days will be made for use in the fair rental value, property tax, and property insurance per diem calculations.

D. Payments. The additional fair rental value, property tax, and property insurance payments will be paid to the buyer(s) in equal quarterly installments for five years (20 quarters) effective the calendar quarter that the seller's facility is closed and the seller's licensed beds are surrendered to the department.

1. The revised fair rental value per diem and revised property tax and insurance per diem for the buyer(s) will be effective the first day of the month following the closure of the acquired facility (seller).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1349 (July 2007).

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

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

0707#054

## RULE

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

Nursing Facilities—Resident Personal Fund Accounts  
(LAC 48:I.9734)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 48:I.9734 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

#### Title 48

### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

##### Subpart 3. Licensing

#### Chapter 97. Nursing Homes

##### Subchapter C. Resident Rights

#### §9734. Resident Personal Fund Account

A. A nursing facility resident, with a personal fund account managed by the nursing facility, may sign an account agreement acknowledging that any funds deposited into the personal fund account by, or on the resident's behalf, are jointly owned by the resident and his legal representative or next of kin. The account agreement must state that the:

1. funds in the account shall be jointly owned with the right of survivorship;

2. funds in the account shall be used by, for, or on behalf of the resident;

3. resident or the joint owner may deposit funds into the account; and

4. resident or joint owner may endorse any check, draft or other instrument to the order of any joint owner, for deposit into the account.

B. If a valid account agreement has been executed by the resident, upon the resident's death, the nursing facility shall

transfer the funds in the resident's personal fund account to the joint owner within 30 days of the resident's death. This provision only applies to personal fund accounts not in excess of \$2,000.

C. If a valid account agreement has not been executed, upon the resident's death, the nursing facility shall comply with the federal and state laws and regulations regarding the disbursement of funds in the account and the properties of the deceased.

D. The provisions of §105 shall have no effect on federal or state tax obligations or liabilities of the deceased resident's estate. If there are other laws or regulations which conflict with these provisions, those laws or regulations will govern over and supersede the conflicting provisions.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1350 (July 2007).

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

0707#053

## RULE

### Department of Public Safety and Corrections Office of the State Fire Marshal

Boiler Construction, Maintenance,  
Inspection and General Use  
(LAC 55:V.Chapter 50)

In accordance with the provisions of R.S. 49:950 et seq., 23:531 and 51:1424 relative to the authority of the Office of State Fire Marshal to promulgate and enforce rules, the Office of State Fire Marshal hereby adopts the following Rule regarding the regulation of boilers.

#### Title 55

### PUBLIC SAFETY

#### Part V. Fire Protection

#### Chapter 50. Boiler Construction, Maintenance, Inspection and General Use

##### Subchapter A. General Provisions

#### §5001. Preface

A.1. The objective of these rules and regulations is to promote safe and efficient boiler practices for the construction, repair, alteration, operation and inspection of all boilers, and to provide for inspection during fabrication, assembly, modification, repair or alteration of those pressure vessels which are required by the owner or user to:

a. meet American Society of Mechanical Engineers (ASME) rules for construction, and the National Board Inspection Code (NBIC) rules for repair; and

b. be stamped as meeting those rules; thereby insuring better protection of life and property.

2. To this end we invite the cooperation of all boiler and pressure vessel manufacturers, owners, users, operators and insurance companies.

B. It is intended that these rules and regulations will effect reasonable and adequate regulations governing the construction, maintenance, inspection and use of boilers, and provide for the inspection during fabrication, repair or



alteration of those pressure vessels that are required by the owner or user to:

1. meet ASME and NBIC requirements; and
2. be stamped as meeting those rules.

C. These rules and regulations are not designed to provide an inspection program for unfired pressure vessels, except as provided for by the Act, however, inspections will be provided when requested by the owner or user. They are intended to promote uniform standards for the design, fabrication, repair, alteration and inspection of steam and hot water boilers, and the inspection during fabrication, repair or alteration of those pressure vessels that are required by the owner or user to:

1. meet ASME and NBIC requirements; and
2. be stamped as meeting those rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1350 (July 2007).

### §5002. Application

A.1. The rules and regulations herein promulgated apply to all boilers subject to the provisions of the Louisiana Revised Statutes of 1950, Title 23, Chapter 5, Part III, Sections 531 through 545, (Except boilers exempted by R.S. 23:540), and to those pressure vessels that are required by the owner or user to:

- a. meet ASME and NBIC requirements; and
- b. be stamped as meeting those rules, as provided for by R.S. 23:531.

2. These rules and regulations shall conform as nearly as practicable to the ASME Boiler and Pressure Vessel Codes; Section I Power Boilers, 2004 Edition, 2005 Addendum; Section IV Heating Boilers, 2004 Edition, 2005 Addendum; Section V Non Destructive Examination, 2004 Edition, 2005 Addendum; Section VI-Recommended Rules for the Care and Operation of Heating Boilers, 2004 Edition, 2005 Addendum; Section VII Recommended Guidelines for the Care of Power Boilers, 2004 Edition, 2005 Addendum; Section VIII Pressure Vessels to the extent the rules and regulations apply, 2004 Edition, 2005 Addendum; Section IX—Welding and Brazing Qualifications, 2004 Edition, 2005 Addendum; ASME B31.1 Power Piping, 2004 Edition, 2005 Addendum; ASME CSD. —1 Controls and Safety Devices for Automatically Fired Boilers, 2004 Edition (with the exception of Part CM-Testing and Maintenance), and NFPA 54 National Fuel Gas Code, 2002 Edition, adopted by the council of the American Society of Mechanical Engineers; and the National Board Inspection Code, 2004 Edition, 2005 Addendum.

B. Where the application of a rule would cause expense materially out of proportion to the increase of safety secured thereby, or would be unreasonable under the facts of the particular case, and safety can be secured in other ways, the assistant secretary may, upon adequate showing by the owner or user, grant an exemption of the rule complained of under such requirements as will secure a reasonable condition of safety.

C. The rules providing for inspection of new and existing installations shall apply to all boilers subject to the provisions of Act 264 of the Regular Session of 1938, as continued or substituted for by Title 23, Chapter 5, Part III, of the Louisiana Revised Statutes of 1950, regardless of

whether inspected by an inspector employed by the Department of Public Safety or by an insurance company inspector, and shall apply to all boilers whether stationary or portable, insofar as is practical.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1351 (July 2007).

### §5003. Definitions

*Act*—regulations affecting boilers, as enacted, amended and reenacted by the Legislature of Louisiana, herein referred to as the Louisiana Revised Statutes of 1950, Title 23, Chapter 5, Part III, Sections R.S. 23:531 through R.S. 23:545.

*Alteration*—a change in any item described on the original Manufacturers Data Report that affects the pressure containing capability of the boiler or pressure vessel. Non-physical changes such as an increase in maximum allowable working pressure (internal or external) or design temperature shall be considered an alteration. A reduction in minimum temperature such that additional mechanical test are required shall also be considered an alteration.

*ASME*—the American Society of Mechanical Engineers.

*ASME Code*—the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code published by that society, including addenda and code cases, approved by its council and adopted by the assistant secretary, shall hereafter be known as the "Louisiana Boiler Construction Code." A copy of this code will be on file at the State of Louisiana, Department of Public Safety, Office of State Fire Marshal, Boiler Inspection Section, Baton Rouge, Louisiana.

*Assistant Secretary*—as used herein shall be the Fire Marshal for the State of Louisiana.

*Authorized Inspection Agency*—one of the following:

1. a department or division established by a jurisdiction which has adopted and does administer one or more sections of the ASME Code, one of which shall be Section I as a legal requirement, and whose inspectors hold valid commissions issued by the National Board of Boiler and Pressure Vessel Inspectors. For these rules this shall be the Boiler Inspection Section, Office of State Fire Marshal, State of Louisiana;

2. an insurance company which has been licensed or registered by the appropriate authority of a state of the United States or a Province of Canada, to write and does write boiler and pressure vessel insurance, and to provide inspection service of boilers and pressure vessels that they insure in such state or province, and whose inspectors meet the requirements of *Authorized Inspector* below.

*Authorized Inspector*—an inspector who holds a current commission as an inspector of boilers and other pressure vessels, issued by the National Board of Boiler and Pressure Vessel Inspectors; a certificate of competency and commission as a boiler inspector, issued by the Boiler Inspection Section, Office of State Fire Marshal, State of Louisiana.

*Boiler*—a vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use external to itself, by the direct application of heat, that is heat resulting from the combustion of fuel, electrical elements, nuclear fuel, or

waste gases. (Vessels known as evaporators or heat exchangers and vessels in which steam and other vapor is generated by the use of heat resulting from operation of a processing system containing a number of pressure vessels such as used in the manufacture of chemical and petroleum products, would be exempted from jurisdictional inspection requirements.) The term *boiler* shall include the following.

1. *Power Boiler*—a boiler in which steam is generated at a pressure of more than 15 psig.

2. *High Pressure/High Temperature Water Boiler*—a water boiler intended for operation at pressures in excess of 160 psig and/or temperatures in excess of 250° F.

3. *Heating Boiler*—a steam boiler operating at pressures not exceeding 15 psig, or a hot water boiler operating at pressures not exceeding 160 psig and/or temperatures not exceeding 250° F.

4. *Electric Boiler*—a power boiler or a hot water heating or supply boiler in which the source of heat is electricity.

5. *Miniature Boiler*—a power boiler or a high-temperature water boiler which does not exceed the following limits:

- a. 16 inch inside diameter of shell;
- b. 20 square feet heating surface (not applicable to electric boilers);
- c. 5 cubic feet gross volume exclusive of casing and insulation;
- d. 100 psig maximum allowable working pressure.

6. *Steam Heating Boiler*—a steam boiler for operation at pressures not exceeding 15 psig, used for heating purposes.

7. *Hot Water Heating Boiler*—a boiler in which no steam is generated, from which hot water is circulated for heating purposes and then returned to the boiler, and which operates at a pressure not exceeding 160 psig and/or a temperature of 250° F at or near the boiler outlet.

8. *Hot Water Supply Boiler*—a boiler completely filled with water that furnishes hot water to be used externally to itself at pressures not exceeding 160 psig or a temperature not exceeding 250° F at or near the boiler outlet.

9. *Potable Water Boiler*—a vessel in which water is heated and withdrawn for use external to itself at pressures not exceeding 160 psig and temperatures not exceeding 210° F. This shall include hot water heaters (fired and electric), supplying potable hot water, 50 gallons and over in capacity; coil water heaters and fired jacketed kettles.

10. *Portable Boiler*—a boiler which is primarily intended for temporary location and the construction and usage permits it to be readily moved from one location to another.

11. *Heat Recovery Boiler*—a vessel or system of vessels comprised of one or more heat exchanger surfaces used for the recovery of waste heat (Vessels known as evaporators or heat exchangers and vessels in which steam and other vapor is generated by the use of heat resulting from the operation of a processing system containing a number of pressure vessels such as used in the manufacture of chemical and petroleum products, are to be exempted from jurisdictional inspection requirements).

12. *Unfired Steam Boiler*—an unfired vessel intended for operation at a pressure in excess of 15 psig steam for the purpose of producing and controlling an output of thermal

energy. (Vessels known as evaporators or heat exchangers and vessels in which steam and other vapor is generated by the use of heat resulting from the operation of a processing system containing a number of pressure vessels such as used in the manufacture of chemical and petroleum products, are to be exempted from jurisdictional inspection requirements).

13. *Waste Heat Boiler*—an unfired vessel or system of unfired vessels intended for operation in excess of 15 psig steam for the purpose of producing and controlling an output of thermal energy. (Vessels known as evaporators or heat exchangers and vessels in which steam and other vapor is generated by the use of heat resulting from the operation of a processing system containing a number of pressure vessels such as used in the manufacture of chemical and petroleum products, are exempted from jurisdictional inspection requirements.)

*Certificate Inspection*—an inspection, the report of which is used by the chief inspector as justification for issuing, withholding or revoking the inspection certificate. This certificate inspection shall be an internal inspection when required; otherwise, it shall be as complete an inspection as possible.

1. *Internal Inspection*—as complete an examination as can be made of the internal and external surface of a boiler or pressure vessel while it is shut down and manhole plates, hand hole plates or other inspection opening closures are removed as required by the inspector.

2. *External Inspection*—an inspection made when a boiler or pressure vessel is in operation, if possible.

*Certificate of Competency*—a certificate issued to a person who has passed the examination prescribed by the assistant secretary.

*Certificate of Inspection*—a certificate issued by the chief inspector for the operation of a boiler or pressure vessel as required by the Act.

*Commission-National Board*—the commission issued by the National Board of Boiler and Pressure Vessel Inspectors to a holder of a certificate of competency who desires to make shop inspections or field inspections in accordance with the National Board Bylaws and whose employer submits the inspector application to the national board for such commission.

*Condemned Boiler or Pressure Vessel*—a boiler or pressure vessel that has been inspected and declared unsafe, or disqualified by legal requirements, by an inspector and a stamping or marking designating its condemnation has been applied by the chief inspector, deputy or special inspector.

*Existing Installation*—includes any boiler constructed, installed, placed in operation, or contracted for before July 7, 1938 and any pressure vessel (when required by the Act) before July 16, 1975.

*Inspector*—the chief inspector, any deputy inspector or special inspector.

1. *Chief Inspector*—the chief boiler and pressure vessel inspector, appointed under the Act.

2. *Deputy Inspector*—any inspector, employed by this state and appointed by the assistant secretary under the provisions of the Act.

3. *Special Inspector*—an inspector holding a Certificate of Competency, and who is regularly employed by an insurance company authorized to insure against loss from explosion of boilers or pressure vessels in this state.

*Jurisdiction*—a state, commonwealth, county or municipality of the United States or a province of Canada, which has adopted one or more sections of the ASME Code, or other codes and standards accepted by the National Board of Boiler and Pressure Vessel Inspectors, and maintains a duly constituted department, bureau or division for the purpose of enforcement of such Code.

*National Board*—the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229, whose membership is composed of the chief inspectors of jurisdictions, who are charged with the enforcement of the provisions of the ASME Code.

*National Board Inspection Code*—the manual for boiler and Pressure vessel inspectors published by the National Board of Boiler and Pressure Vessel Inspectors, from which copies may be obtained.

*New Boiler or Pressure Vessel*—includes all boilers constructed, installed, placed in operation or contracted for after July 7, 1938, or pressure vessels (when requested) after July 16, 1975.

*Non-Standard Boiler or Pressure Vessel*—a boiler or pressure vessel that does not bear the ASME stamp, the API-ASME stamp, or the stamp of any jurisdiction which has adopted a standard of construction equivalent to that required by these rules.

*Owner or User*—any person, firm or corporation legally responsible for the safe installation, operation and maintenance of any boiler or pressure vessel within this jurisdiction.

*Pressure Vessel*—a vessel in which the pressure is obtained from an external source, or by the application of heat from an indirect source, or from a direct source other than those boilers defined herein, and shall be those vessels within the scope of Section VIII of the ASME Code.

*PSIG*—pounds per square inch gauge.

*Reinstalled Boiler or Pressure Vessel*—a boiler or pressure vessel removed from its original setting and reinstalled at the same location or at a new location without change of ownership.

*Repair*—the work necessary to restore a boiler or pressure vessel to a safe and satisfactory operating condition, provided there is no deviation from the original design.

*Repair/Pressure Relief Valve*—the replacement, re-machining or cleaning of any critical part, lapping of seat and disk or any other operation which may affect the flow passage, capacity function or pressure retaining ability of the valve. Disassembly, reassembly and/or adjustments which affect the pressure relief valve function are also considered repair

*Second Hand Boiler or Pressure Vessel*—a boiler or pressure vessel that has changed both locations and ownership since its primary use.

*Standard Boiler or Pressure Vessel*—a boiler or pressure vessel which bears the stamp of the state, the ASME stamp, the API-ASME stamp, both the ASME and National Board stamp, or the stamp of another jurisdiction which has adopted a standard of construction equivalent to that required by this state.

*Water Heater*—a vessel in which water is heated by combustion of fuel or electricity, for use external to the system at pressures not exceeding 160 psig and shall include all controls and devices necessary to prevent water

temperatures from exceeding 210° F as well as storage vessels connected to the water heater (also defined as a potable water boiler).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1351 (July 2007).

## **Subchapter B. Administration**

### **§5006. Boilers to Comply with Code Requirements**

A. No boiler shall be installed in this state unless it has been constructed, inspected and stamped in conformity with the ASME Code and registered with the National Board except:

1. those exempt by the Act;
2. those existing installations (see §5003. Definitions);
3. those potable water heaters exempted by Part HLW-101, Section IV of the ASME Code, that are required by the Act, to comply with these rules and regulations. (Those heaters must be designed and constructed according to Underwriters Laboratories or other Nationally Recognized Standards, and shall bear their label on the completed unit);
4. those approved as "Louisiana Special."

B. Louisiana Special. If, due to a valid impediment to compliance with the original code of construction, a boiler cannot bear the required construction code and national board stamping, details in the English language and United States customary units of the proposed construction, material specifications and calculations, approved by a registered professional engineer experienced in boiler systems design, shall be submitted to the chief inspector by the owner or user and approval as "Louisiana Special" obtained before construction is started.

C. A boiler having a standard or special stamping of another state that has adopted a standard of construction equivalent to that required for Louisiana, may be accepted by the assistant secretary. The owner/user desiring to install such a boiler shall make application for the installation of same and shall file with the application of a manufacturers data report covering the construction of the boiler in question and a copy of the approval for construction from the state in which the boiler was fabricated.

D. The stamping, ASME, NB, or Standard Label, shall not be concealed by lagging or paint and shall be exposed at all times unless a suitable cover is provided and identifies the stamping as beneath the cover, or a suitable record is kept of the location of the stamping so that it may be readily uncovered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1353 (July 2007).

### **§5007. Inspections**

A. Upon completion of installation, all boilers shall be inspected by an inspector commissioned to inspect boilers in this state, and shall be inspected thereafter as follows.

1. Power boilers shall receive an internal certificate inspection annually, with the exception of those covered by R.S. 23:536.A, and may receive an external inspection while under pressure at approximately six months following the internal inspection.

2. High temperature and high pressure water boilers shall receive an external inspection annually, with an internal inspection done every six years based on the date of manufacture.

3. Low Pressure Boilers and Potable Water Boilers shall receive a certificate inspection biennial as follows.

a. Steam heating boilers shall receive an internal inspection every two years where construction permits, otherwise, a thorough external inspection shall be performed.

b. Hot water heating and hot water supply boilers shall receive an external inspection every two years and where construction permits an internal inspection every six years based on the date of manufacture.

c. All potable water boilers/water heaters shall receive an external inspection, including the functions of all controls and devises, at the initial installation; except those located in privately owned residences. Those potable water boilers/water heaters 50 gallons in capacity and larger (including any attached storage vessels) and/or 100,000 BTU/HR heat input, shall be issued a state jurisdiction number and a certificate to operate. Those heaters issued an operating certificate will require an external inspection every two years thereafter.

B. In addition to a certificate inspection being conducted in accordance with R.S. 23:536 in a commercial laundromat, as defined by R.S. 47:305.17 the Deputy State Fire Marshal inspector shall verify that hot water is being supplied to each machine at a minimum temperature of 120° F or a sign shall be placed on the machine indicating that hot water is not available.

C. Upon application from the owner or user with the recommendation of a deputy inspector or special inspector, the chief inspector may authorize an extension of the internal inspection period, as provided for by the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1353 (July 2007).

#### **§5008. Second-Hand Installations to Comply with New Installation Requirements**

A. In any case where a second-hand boiler is installed, that is, both the ownership and location of which is changed, all fittings and appliances must comply with the applicable ASME Code section for new installations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1354 (July 2007).

#### **§5009. Application of State Serial Numbers**

A. Upon completion of the installation of a boiler, or at the time of the initial certificate inspection of an already installed boiler that has not been inspected and decaled according to these rules. A decal with the state serial number shall be placed in a conspicuous location on the boiler/water heater for identification.

B. Pressure vessels when requested to be inspected by the owner or user shall have securely attached one of the decals provided by the boiler inspection section containing the state serial number, and shall be decaled under the same

pressure and temperature guidelines provided for boilers by these rules and regulations.

C. State serial numbers that have been decaled or otherwise attached to a boiler shall not be defaced or removed except as provided for by these rules and regulations, and shall not be covered by insulation or other material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1354 (July 2007).

#### **§5010. Examination for an Inspectors Certificate of Competency**

A. Examination for an inspectors certificate of competency shall be held at the Office of the State Fire Marshal or any other location to be selected by the chief inspector, four times each year, namely the first Wednesday and 1/2 day Thursday in the months of March, June, September and December. An applicant for an examination shall have education and experience equal to at least one of the following:

1. from an accredited school, a degree in engineering plus one year of experience in design, construction, operation or inspection of high-pressure boilers and pressure vessels;

2. an associate degree in mechanical technology plus two years of experience in design, construction, operation or inspection of high-pressure boilers and pressure vessels;

3. a high school education or the equivalent plus three years of experience:

a. in high-pressure boiler and pressure vessel construction or repair; or

b. in charge of high-pressure boiler operation; or

c. in the inspection of high-pressure boilers and pressure vessels.

B. Applications for examination shall be in writing on a form to be furnished by the chief inspector stating the education of the applicant, a list of the applicant's employers, the applicant's period of employment and position held with each employer. Applications containing willful falsifications or untruthful statements shall be cause for rejection. Applications shall be submitted to the chief inspector at least 45 days prior to the date of examination. If the applicants education and experience are acceptable to the chief inspector, the applicant shall be given a written examination prepared by the National Board of Boiler and Pressure Vessel Inspectors or the American Petroleum Institute, as applicable, dealing with the construction, maintenance and repair of boilers and pressure vessels and appurtenances, and the applicant shall be accepted or rejected on the merits of this examination. If the applicant is successful in meeting the requirements, a certificate of competency will be issued by the chief inspector, when the applicant is employed on a full-time basis by an authorized inspection organization (see §5003.Definitions). Upon the expiration of 90 days, an applicant who failed to pass the examination will be permitted to take another written examination and applicant's acceptance or rejection will be determined on the basis of this examination.

C. An NDE Level II examiner of ASME code boilers and pressure vessels may be credited one year towards the

experience requirements above provided the applicant has five years of documented experience in that position and meets all other requirements.

D. A quality control inspector of ASME code boilers and pressure vessels, applying under Subsection C above, may be credited with four months of experience under the experience requirements of such section for each year of documented, diversified experience he/she possesses in the implementation of an ASME accepted written quality control/assurance system, up to a maximum of 24 months of such credit, provided that the applicant meets all other applicable requirements and provided that he/she has the balance of experience required under Paragraph 3 above in actual work described in Subparagraphs a, b, or c.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1354 (July 2007).

#### **§5011. Examination Fees**

A. A fee of \$50 will be charged for each applicant taking the examination for a certificate of competency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1355 (July 2007).

#### **§5012. Certificate of Competency and Identification Card**

A. Upon request of an employer, a certificate of competency and an identification card may be issued by the chief inspector to:

1. an inspector employed by the jurisdiction;
2. an inspector who is employed full-time by an insurance company which is authorized to insure and does insure against loss from explosions of boilers and pressure vessels in this jurisdiction;
3. an inspector employed as described in either Paragraph 1 or 2 above who conducts shop or field inspections of new boilers, pressure vessels, or nuclear components in accordance with the applicable ASME code requirements.

B. The request for the certificate of competency and identification card shall be completed on forms to be provided by the chief inspector and shall be accompanied by, when applicable, a facsimile of the applicant's commission and commission card, certificate of competency and identification card as named above, and a fee of \$40.

C. The certificate of competency and valid identification card shall be returned to the chief inspector when the inspector to whom they were issued is no longer employed by the organization employing that inspector at the time that the certificate was issued. Each person holding a valid certificate of competency and who conducts inspections as provided by the Act shall apply to the chief inspector on forms provided and obtain a renewal identification card annually, not later than March 31 of each year. A fee of \$20 for each card shall accompany each applicant.

D. An inspectors certificate of competency may be suspended by the chief inspector after due investigation for neglect of duty, in competency, untrustworthiness or conflict of interest of the holder thereof, or for willful falsification of any matter or statement contained in his/her application, or

in a report of any inspection made by him/her. Written notice of any such suspension shall be given to the inspector and his/her employer by the chief inspector within not more than 10 days after the effective date of such suspension. Persons whose certificates of competency have been suspended shall be entitled to an appeal to the assistant secretary and to be present in person and represented by counsel at the hearing of the appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1355 (July 2007).

#### **§5013. Conflict of Interest**

A. An inspector shall not engage in the sale of any services, article or device relating to boilers, pressure vessels, or their appurtenances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1355 (July 2007).

#### **§5014. Inspection Reports to be submitted by Inspectors**

A. Reports shall be submitted on approved forms or format within 30 days from the date of the inspection. The copy of the report filed with the assistant secretary shall be filled out in ink or type-written, and shall be signed by the inspector.

B. External inspection reports are required when they are used to support a request for an extension of internal inspection, when the design of a vessel does not provide for an internal inspection an annual external certificate inspection shall be completed, and to report unsafe conditions or code violations which would affect the safety of the boiler.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1355 (July 2007).

#### **§5015. Insurance Companies to Notify Chief Inspector of New, Canceled or Suspended Insurance on Boilers, Pressure Vessels, or Nuclear Systems**

A. All insurance companies shall notify the chief inspector, within 30 days, of all boilers, pressure vessels, or nuclear systems, on which insurance is written, canceled, not renewed or suspended because of unsafe conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1355 (July 2007).

#### **§5016. Special Inspectors to Notify Chief Inspector of Unsafe Boilers**

A. If a special inspector, upon first inspection of a new risk, finds that a boiler or any appurtenance thereof, is in such condition that the special inspectors company would refuse insurance, the company shall immediately notify the chief inspector and submit a report on the defects. if, upon inspection, a special inspector finds a boiler to be unsafe for further operation, the special inspector shall promptly notify the owner or user, stating what repairs or other corrective measures is required to bring the object into compliance with

these rules and regulations. If the owner or user fails to make such repairs or adopt such other corrective measures promptly, the special inspector shall immediately notify the chief inspector. Until such corrections have been made, no further operation of the boiler involved shall be permitted. If an inspection certificate for the object is required and is in force, it shall be suspended by the chief inspector. When reinspection establishes that the necessary repairs have been made or corrective actions have been taken and that the boiler is safe to operate, the chief Inspector shall be notified. At that time an inspection certificate, where applicable will be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1355 (July 2007).

#### **§5017. Defective Conditions Disclosed at Time of External Inspection**

A. If, upon an external inspection, there is evidence of a leak or crack, sufficient covering of the boiler shall be removed to permit the inspector to satisfactorily determine the safety of the boiler. If the covering cannot be removed at that time, he/she may order the operation of the boiler stopped until such time as the covering can be removed and proper examination made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1356 (July 2007).

#### **Subchapter C. Existing Installations—Power Boilers**

##### **§5020. Age Limits of Existing Boilers**

A. The age limit of any boiler of nonstandard construction, installed prior to the date the Act became effective, shall be 30 years except that, a boiler having other than a lap-riveted longitudinal joint, after a thorough internal and external inspection, and when required by the inspector, a hydrostatic test of 1-1/2 times the allowable working pressure held for a period of at least 30 minutes during which no distress or leakage develops, may be continued in operation at the working pressure determined by calculation. The age limit on any non-standard boiler having lap-riveted longitudinal joints and operating at a pressure in excess of 50 psig shall be 20 years. This type of boiler, when removed from an existing setting shall not be reinstalled for a pressure in excess of 15 psig. A reasonable time for replacement, not to exceed one year, may be given at the discretion of the assistant secretary.

B. The age limit of boilers of standard construction installed prior to the date this law, Title 23, Chapter 5, Page III, of the Louisiana Revised Statutes of 1950, became effective shall be dependent on thorough internal and external inspection and where required by the inspector, a hydrostatic pressure test not exceeding one and 1/2 times the allowable working pressure, if the boiler, under these test conditions, exhibits no distress or leakage, it may be continued in operation at the working pressure determined by calculation.

C. The shell or drum of a boiler in which a lap seam crack develops along a longitudinal lap-riveted joint shall be condemned. A lap seam crack is a crack found in lap seams

extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1356 (July 2007).

##### **§5021. Maximum Allowable Working Pressure for Standard Boilers**

A. The maximum allowable working pressure for standard boilers shall be determined in accordance with the applicable provisions of the edition of the ASME Code under which they were constructed and stamped.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1356 (July 2007).

##### **§5022. Maximum Allowable Working Pressure for Nonstandard Boilers**

A. The maximum allowable working pressure for boilers fabricated by riveting shall be determined by the applicable rules of the 1971 Edition of Section I of the ASME Code.

B. The lowest factor of safety permissible on existing installations shall be 5, except for horizontal-return-tubular boilers having continuous longitudinal lap seams more than 12 feet in length, the factor of safety shall be 8. When this latter type of boiler is removed from its existing setting, it shall not be reinstalled for pressure in excess of 15 psig.

C. The maximum allowable working pressure for boilers of welded construction in service may not exceed that allowable in Section I of the ASME Code for new boilers of the same construction.

D. The maximum allowable working pressure on the shell of a boiler or drum shall be determined by the strength of the weakest course computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint, the inside diameter of the course, and the factor of safety allowed by these rules and regulations in accordance with the following formula.

$$\frac{TStE}{RFS}$$

where:

TS = specified minimum tensile strength of shell plate material, psi. When the tensile strength of steel or wrought-iron shell plate is not known, it shall be taken as 55,000 psi for steel and 45,000 psi for wrought iron.

t = minimum thickness of shell plate, in weakest course, inches.

E = efficiency of longitudinal joint, method of determining which is given in Paragraph PG-27 of Section I of the ASME Code.

R = inside radius of the weakest course of the shell of drum, inches.

FS = factor of safety which shall be at least 5.

E. The inspector may increase the factor of safety, if the condition and safety of the boiler warrant it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1356 (July 2007).

#### **§5023. Cast-Iron Headers and Mud Drums**

A. The maximum allowable working pressure on a water tube boiler, the tubes of which are secured to cast-iron or malleable-iron headers or which have cast-iron mud drums, shall not exceed 160 psig.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1357 (July 2007).

#### **§5024. Pressure on Cast-Iron Boilers**

A. The maximum allowable working pressure for any cast-iron boiler, except hot water boilers, shall be 15 psig.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1357 (July 2007).

#### **§5025. Safety Valves**

A. The use of weighted-lever safety valves or safety valves having either the seat or disk of cast-iron are prohibited; valves of this type of construction shall be replaced by direct, spring-loaded, pop-type valves that conform to the requirements of ASME Code, Section I.

B. Each boiler shall have at least one ASME/NB stamped and certified safety valve, and if it has more than 500 square feet of water-heating surface, or an electric power input of more than 1100 KW, it shall have two or more safety valves of the same type.

C. The valve or valves shall be connected to the boiler, independent of any other steam connection and attached as close as possible to the boiler without unnecessary intervening pipe or fittings. Where alteration is required to conform to this requirement, owner or user shall be allowed reasonable time in which to complete the work as permitted by the chief inspector.

D. No valves of any description shall be placed between the safety valve and the boiler nor on the escape pipe, if used. When an escape pipe is used, it shall be at least the full size of the safety valve discharge and fitted with an open drain to prevent water lodging in the upper part of the safety valve or in the escape pipe. When an elbow is placed on a safety valve escape pipe, it shall be located close to the safety valve outlet or the escape pipe shall be anchored and supported securely. All safety discharges shall be so located or piped as to be carried clear from walkways or platforms.

E. The safety valve capacity of each boiler shall be such that the safety valve or valves will discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than 6 percent above the highest pressure to which any valve is set, and in no case to more than 6 percent above the maximum allowable working pressure.

F. One or more safety valves on every boiler shall be set at or below the maximum allowable working pressure. The remaining valves may be set within a range of 3 percent above the maximum allowable working pressure, but the range of setting of all the safety valves on a boiler shall not exceed 10 percent of the highest pressure to which any valve is set.

G. When boilers of different maximum allowable working pressures with minimum safety valve settings varying more than 6 percent are so connected that steam can flow toward the lower pressure units, the latter shall be protected by additional safety valve capacity, if necessary, on the lower pressure side of the system. The additional safety valve capacity shall be based upon the maximum amount of steam which can flow into the lower pressure system.

H. In those cases where the boiler is supplied with feed water directly from water mains without the use of feeding apparatus (not to include return traps), no safety valve shall be set at a pressure greater than 94 percent of the lowest pressure obtained in the supply main feeding the boiler.

I. The relieving capacity of the safety valves on any boiler shall be done by one of the three following methods and, if found to be insufficient, additional valves shall be provided:

1. by making an accumulation test, which consists of shutting off all other steam discharge outlets from the boiler and forcing the fires to the maximum. The safety valve capacity shall be sufficient to prevent a rise of pressure in excess of 6 percent of the maximum allowable working pressure. This method should not be used on a boiler with a super heater or reheater;

2. by measuring the maximum amount of fuel that can be burned and computing the corresponding evaporative capacity (steam generating capacity) upon the basis of the heating value of this fuel. These computations shall be made as outlined in the Appendix of the ASME Code, Section I;

3. by measuring the maximum amount of feed water that can be evaporated. When either of the methods outlined in two or three is employed, the sum of the safety valve capacities shall be equal to or greater than the maximum evaporative capacity (maximum steam generating capacity) of the boiler.

J. Repairs to safety and safety-relief valves shall be conducted only by holders of the National Board VR Certificate of Authorization, or by owner/users that have obtained the state certificate of authorization to repair safety and safety-relief valves.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1357 (July 2007).

#### **§5026. Boiler Feeding**

A. Each boiler shall have a feed supply which will permit it to be fed at any time while under pressure.

B. A boiler having more than 500 square feet of water heating surface shall have at least two suitable means of feeding, at least one of which shall be a feed pump. A source of feed at a pressure 6 percent greater than the set pressure of the safety valve with the highest setting maybe considered one of the means. Boilers fired by gaseous, liquid, or solid fuel in suspension may be equipped with a single means of feeding water provided means are furnished for the shutoff of heat input prior to the water level reaching the lowest safe level.

C. The feed water shall be introduced into a boiler in such a manner that the water will not be discharged directly against surfaces exposed to gases of high temperature to direct radiation from the fire. For pressures of 400 psig over,

the feed water inlet through the drum shall be fitted with shields, sleeves, or other suitable means to reduce the effects of temperature differentials in the shell or head.

D. The feed piping to the boiler shall be provided with a check valve near the boiler and a valve or cock between the check valve and the boiler. When two or more boilers are fed from a common source, there shall also be a valve on the branch to each boiler between the check valve and the source of supply. Whenever a globe valve is used on feed piping, the inlet shall be under the disk of the valve.

E. In all cases where returns are fed back to the boiler by gravity, there shall be a check valve and stop valve in each return line, the stop valve to be placed between the boiler and the check valve, and both shall be located as close to the boiler as practicable. It is recommended that no stop valves be placed in the supply and return pipe connections of a single boiler installation.

F. Where deaerating heaters are not employed, it is recommended that the temperature of the feed water be not less than 120° F to avoid the possibility of setting up localized stress. Where deaerating heaters are employed, it is recommended that the minimum feed water temperature be not less than 215° F so that dissolved gases may be thoroughly released.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1357 (July 2007).

#### **§5027. Water Level Indicators**

A. Each boiler, except forced-flow steam generators with no fixed steam and waterline, and high-temperature water boiler of the forced circulation type that have no steam and waterline, shall have at least one water gage glass. Boilers operated at pressures over 400 psig shall be provided with two water gage glasses which may be connected to a single water column or connected directly to the drum.

B. Two independent remote level indicators may be provided instead of one of the two required gage glasses for boiler drum water level indication in the case of power boilers with all drum safety valves set at or above 400 psig. When both remote level indicators are in reliable operation, the remaining gage glass may be shut off, but shall be maintained in serviceable condition.

C. When the direct reading of gage glass water level is not readily visible to the operator in his/her working area, two dependable indirect indications shall be provided, either by transmission of the gage glass image or by remote level indicators.

D. The lowest visible part of the water gage glass shall be at least two inches above the lowest permissible water level, at which level there will be no danger of overheating any part of the boiler when in operation at that level. When remote level indication is provided for the operator in lieu of the gage glass, the same minimum level reference shall be clearly marked.

E. Connections from the boiler to the remote level indicator shall be at least 3/4 inch pipe size to and including the isolation valve and from there to the remote level indicator at least 1/2 inch O.D. tubing. These connections shall be completely independent of other connections for any function other than water level indication. For pressures of 400 psig or over, lower connections to drums shall be

provided with shields, sleeves, or other suitable means to reduce temperature differentials in the shells or heads.

F. Boilers of the horizontal fire tube types shall be so set that when the water is at the lowest reading in the water gage glass there shall be at least 3 inches of water over the highest point of the tubes, flues, or crown sheets.

G. Boilers of locomotives shall have at least one water glass provided with top and bottom shutoff cocks and lamp, and two gage cocks for boilers 36 inches in diameter and under, and three gage cocks for boilers over 36 inches in diameter.

H. The lowest gage cock and the lowest reading of water glass shall not be less than 2 inches above the highest point of crown sheet on boilers 36 inches in diameter and under, nor less than 3 inches for boilers over 36 inches in diameter. These are minimum dimensions, and on larger locomotives and those operating on steep grades, the height should be increased, if necessary, to compensate for change of water level on descending grades.

I. The bottom mounting for water glass and for water column if used must extend not less than 1 1/2 inches inside the boiler and beyond any obstacle immediately above it, and the passage therein must be straight and horizontal.

J. Tubular water glasses must be equipped with a protecting shield.

K. All connections on the gage glass shall be not less than 1/2 inch pipe size. Each water gage glass shall be fitted with a drain cock or valve having an unrestricted drain opening of not less than 1/4 inch diameter to facilitate cleaning. When the boiler operating pressure exceeds 100 psig the glass shall be furnished with a connection to install a valved drain to the ash pit or other safe discharge point.

L. Each water gage glass shall be equipped with a top and bottom shutoff valve of such through-flow construction as to prevent stoppage by deposits of sediments. If the lowest valve is more than 7 feet above the floor or platform from which it is operated, the operating mechanism shall indicate by its position whether the valve is open or closed. The pressure-temperature rating shall be at least equal to that of the lowest set pressure of any safety valve on the boiler drum and the corresponding saturated-steam temperature.

M. Straight-run globe valves shall not be used on such connections.

N. Automatic shutoff valves, if permitted to be used, shall conform to the requirements of Section I of the ASME Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1358 (July 2007).

#### **§5028. Water Columns**

A. The water column shall be so mounted that it will maintain its correct position relative to the normal waterline under operating conditions.

B. The minimum size of pipes connecting the water column to a boiler shall be 1 inch. For pressures of 400 psig or over, lower water column connections to drums shall be provided with shields, sleeves or other suitable means to reduce the effect of temperature differentials in the shells or heads. Water glass fittings or gage cocks may be connected directly to the boiler.



C. The steam and water connections to a water column or a water gage glass shall be such that they are readily accessible for internal inspection and cleaning. Some acceptable methods of meeting this requirement are by providing a cross or fitting with a back outlet at each right-angle turn to permit inspection and cleaning in both directions, or by using pipe bends or fittings of a type which does not leave an internal shoulder or pocket in the pipe connection and with a radius of curvature which will permit the passage of a rotary cleaner. Screwed plug closures using threaded connections as allowed by Section I of the ASME Code are acceptable means of access for this inspection and cleaning. For boilers with all drum safety valves set at or above 400 psig, socket-welded plugs may be used for this purpose in lieu of screwed plugs. The water column shall be fitted with a connection for a drain cock or drain valve to install a pipe of at least 3/4 inch pipe size to the ash pit or other safe point of discharge. If the water connection to the water column has a rising bend or pocket which cannot be drained by means of the water column drain, an additional drain shall be placed on this connection in order that it may be blown off to clear any sediment from the pipe.

D. The design and material of a water column shall comply with the requirements of Section I of the ASME Code. Water columns made of cast-iron in accordance with SA-278 may be used for maximum boiler pressures not exceeding 250 psig. Water columns made of ductile iron in accordance with SA-395 may be used for maximum boiler pressures not exceeding 350 psig. For higher pressures, steel construction shall be used.

E. Shutoff valves shall not be used in the pipe connections between a boiler and a water column or between a boiler and the shutoff valves required for the gage glass, unless they are either outside-screw-and-yoke or lever-lifting type gate valves or stopcocks with lever permanently fastened thereto and marked in line with their passage, or of such other through-flow construction as to prevent stoppage by deposits of sediment, and to indicate by the position of the operating mechanisms whether they are in open or closed position; and such valves or cocks shall be locked or sealed open. Where stopcocks are used, they shall be of a type with the plug held in place by a guard or gland.

F. No outlet connections, except for control devices (such as damper regulators and feed water regulators), drains, steam gages, or apparatus of such form as does not permit the escape of an appreciable amount of steam or water there from shall be placed on the pipes connecting a water column or gage glass to a boiler.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1358 (July 2007).

#### **§5029. Gage Glass Connections**

A. Gage glasses and/or gage cocks that are not connected directly to a shell or drum of the boiler shall be connected by one or the following methods.

1. The water gage glass or glasses and gage cocks shall be connected to an intervening water column.

2. When only water gage glasses are used, they may be mounted away from the shell or drum and the water column omitted, provided the following requirements are met:

a. the top and bottom gage glass fittings are aligned, supported, and secured so as to maintain the alignment of the gage glass; and

b. the steam and water connections are not less than 1 inch pipe size and each water glass is provided with a valved drain; and

c. the steam and water connections comply with the requirements of the following:

i. the lower edge of the steam connection to a water column or gage glass in the boiler shall not be below the highest visible water level in the water gage glass. There shall be no sag or offset in the piping which will permit the accumulation of water; and

ii. the upper edge of the water connection to a water column or gage glass and the boiler shall not be above the lowest visible water level in the gage glass. No part of this pipe connection shall be above the point of connection at the water column.

B. Each boiler (except those not requiring water level indicators) shall have three or more gage cocks located within the visible length of the water glass, except when the boiler has two water glasses located on the same horizontal lines.

C. Boilers not over 36 inches in diameter in which the heating surface does not exceed 100 square feet need have but two gage cocks.

D. The gage cock connections shall be not less than 1/2 inch pipe size.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1359 (July 2007).

#### **§5030. Pressure Gages**

A. Each boiler shall have a pressure gage so located that it is easily readable. The pressure gage shall be installed so that it shall at all times indicate the pressure in the boiler. Each steam boiler shall have the pressure gage connected to the steam space or to the water column or its steam connection a valve or cock may be located near the boiler providing it is locked or sealed in the open position. No other shutoff valves shall be located between the gage and the boiler. The pipe connection shall be of ample size and arranged so that it maybe cleared by blowing out. For a steam boiler the gage or connection shall contain a siphon or equivalent device which will develop and maintain a water seal that will prevent steam from entering the gage tube. Pressure gage connections shall be suitable for the maximum allowable working pressure and temperature but, if the temperature exceeds 406° F, brass or copper pipe or tubing shall not be used. The connections to the boiler, except the siphon if used, shall not be less than 1/4 inch inside the diameter standard pipe size but where steel or wrought iron pipe or tubing is used they shall not be less than 1/2 inch. The minimum size of a siphon, if used, shall be 1/4 inch inside diameter. The dial of the pressure gage shall be graduated to approximately double the pressure at which the safety valve is set, but in no case to less than 1 1/2 times this pressure.

B. Each force-flow steam generator with no fixed steam and water line shall be equipped with pressure gages or other pressure measuring devices located as follows:

1. at the boiler or super heater outlet (following the last section which involves absorption of heat); and

2. at the boiler or economizer inlet (preceding any section which involves absorption of heat); and

3. upstream of any shutoff valve which may be used between any two sections of the heat absorbing surface.

C. Each high-temperature water boiler shall have a temperature gage so located and connected that it shall be easily readable. The temperature gage shall be installed so that it at all times indicates the temperature in degrees Fahrenheit of the water in the boiler, at or near the outlet connection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1359 (July 2007).

### **§5031. Stop Valves**

A. Each steam outlet from a boiler (except safety valve and water column connections) shall be fitted with a stop valve located as close as practicable to the boiler.

B. When a stop valve is so located that water can accumulate, ample drains shall be provided. The drainage shall be piped to a safe location and shall not be discharged on the top of the boiler or its settings.

C. When boilers provided with manholes are connected to a common steam main, the steam piping connected from each boiler shall be fitted with two stop valves having an ample free blow drain between them. The discharge of the drain shall be visible to the operator while manipulating the valves and shall be piped clear of the boiler setting. The stop valves shall consist preferably of one automatic non-return valve (set next to the boiler) and a second valve of the outside-screw-and-yoke type.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1360 (July 2007).

### **§5032. Blow Off Piping**

A. A blow off as required herein is defined as a pipe connection provided with valves located in the external piping through which the water in the boiler may be blown out under pressure, excepting drains such as are used on water columns, gage glasses, or piping to feed water regulators, etc., used for the purpose of determining the operating conditions of such equipment. Piping connections used primarily for continuous operation, such as deconcentrators or continuous blow down systems, are not classed as blow offs but the pipe connections and all fittings up to and including the first shutoff valve shall be equal at least to the pressure requirements for the lowest set pressure of any safety valve on the boiler drum and with the corresponding saturated-steam temperature.

B. A surface blow off shall not exceed 2 1/2 inch pipe size, and the internal pipe and the terminal connection for the external pipe, when used, shall form a continuous passage, but with clearance between their ends and arranged so that the removal of either will not disturb the other. A properly designed steel bushing, similar to or the equivalent of those shown in Fig. PG-59.1 of Section I of the ASME Code or a flanged connection shall be used.

C. Each boiler except forced-flow steam generators with no fixed steam and waterline and high-temperature water boilers shall have a bottom blow off outlet in direct connection with the lowest water space practicable for external piping conforming to PG-58.3.6 of Section I of the ASME Code.

D. All water walls and water screens which do not drain back into the boiler and all integral economizers, shall be equipped with outlet connections for a blow off or drain line and conform to the requirements of PG-58.3.6 or PG-58.3.7 of the ASME Code.

E. Except as permitted for miniature boilers, the minimum size of piping and fittings shall be 1 inch, and the maximum size shall be 2-1/2 inches, except that for boilers with 100 sq. ft. of heating surface or less, the minimum size of pipe and fittings may be 3/4 inch.

F. Condensate return connections of the same size or larger than the size herein specified may be used, and the blow off may be connected to them. In such case, the blow off shall be so located that the connection may be completely drained.

G. A bottom blow off pipe when exposed to direct furnace heat shall be protected by firebrick or other heat resisting material which is so arranged that the pipe may be inspected.

H. An opening in the boiler setting for a blow off pipe shall be arranged to provide free expansion and contraction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1360 (July 2007).

### **§5033. Repairs and Renewals of Boiler Fittings and Appliances**

A. Whenever repairs are made to fittings or appliances or it becomes necessary to replace them, the work shall comply with the requirements for new installations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1360 (July 2007).

### **§5034. Repairs and Alterations to Boilers and Pressure Vessels**

A. Repairs and alterations to boilers and pressure vessels shall be made, in accordance with the currently adopted version of the National Board Inspection Code (NBIC), only by, or on behalf of, an owner/user, a repair organization, or an individual having a valid certificate of authorization for use of the R Symbol stamp issued by the National Board of Boiler and Pressure Vessel Inspectors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1360 (July 2007).

### **§5035. Conditions Not Covered by these Requirements**

A. All cases not specifically covered by these requirements shall be treated as new installations or may be referred to the chief inspector for instructions concerning the requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1360 (July 2007).

**§5036. Standard Boilers**

A. The maximum allowable working pressure of standard boilers shall in no case exceed the pressure indicated by the manufacturers identification stamped or cast on the boiler or on a plate secured to it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1361 (July 2007).

**§5037. Nonstandard Riveted Boilers**

A. The maximum allowable working pressure on the shell of a nonstandard riveted heating boiler shall be determined in accordance with applicable rules of the 1971 Edition of Section I of the ASME code. Power boilers, except that in no case shall the maximum allowable working pressure of a steam heating boiler exceed 15 psig, or a hot water boiler exceed 160 psig or 250° F temperatures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1361 (July 2007).

**§5038. Nonstandard Welded Boilers**

A. The maximum allowable working pressure of a nonstandard steel or wrought iron heating boiler of welded construction shall not exceed 15 psig for steam. For other than steam service, the maximum allowable working pressure shall be calculated in accordance with Section IV of the ASME Code, but in no case shall it exceed 30 psig.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1361 (July 2007).

**§5039. Nonstandard Cast Iron Boilers**

A. The maximum allowable working pressure of a nonstandard boiler composed principally of cast iron shall not exceed 15 psig for steam service or 30 psig for hot water service.

B. The maximum allowable working pressure of a nonstandard boiler having cast iron shell or heads and steel or wrought iron tubes shall not exceed 15 psig for steam service or 30 psig for hot water service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1361 (July 2007).

**§5040. Potable Water Heaters**

A. A potable water heater shall not be installed or used at pressures exceeding 160 psig or water temperatures exceeding 210° F. Water heaters may be used to simultaneously provide potable hot water and space heat in combination, except in places of public assembly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1361 (July 2007).

**§5041. Safety Valves**

A. Each steam boiler shall have one or more ASME/National Board stamped and certified safety valves of the spring pop-type adjusted and sealed to discharge at a pressure not to exceed 15 psig. Seals shall be attached in a manner to prevent the valve from being taken apart without breaking the seal. The safety valves shall be arranged so that they cannot be reset to relieve at a higher pressure than the maximum allowable working pressure on the boiler. A body drain connection below seat level shall be provided by the manufacturer and this drain shall not be plugged during or after field inspection. For valves exceeding 2 inches pipe size, the drain hole or holes shall be tapped not less than 3/8 inch pipe size. For valves less than 2 inches, the drain hole shall not be less than 1/4 inch in diameter.

B. No safety valve for a steam boiler shall be smaller than 1/2 inch. No safety valve shall be larger than 4 1/2 inches. The inlet opening shall have an inside diameter equal to, or greater than, the seat diameter.

C. The minimum relieving capacity of the valve or valves shall be governed by the capacity marking on the boiler. The minimum valve capacity in pounds per hour shall be the greater of that determined by dividing the maximum BTU output at the boiler nozzle obtained by the firing of any fuel for which the unit is installed by 1,000, or shall be determined on the basis of the pounds of steam generated per hour per square foot of boiler heating surface as given in Table EHB-6. In many cases a greater relieving capacity of valves than the minimum specified by these rules will have to be provided.

Table EHB-6. Minimum Pounds of Steam per Hour per Square Foot of Heating Surface		
	Fire Tube Boilers	Water Tube Boilers
Boiler Heating Surface:		
Hand fired	5	6
Stoker fired	7	8
Oil, gas, or pulverized fuel fired	8	10
Water Wall Heating Surface:		
Hand fired	8	8
Stoker fired	10	12
Oil, gas, or pulverized fuel fired	14	16

1. When a boiler is fired only by a gas giving a heat value not in excess of 200 BTU per cu. ft., the minimum safety valve or safety relief valve relieving capacity may be based on the value given for hand fired boilers above.

2. The minimum safety valve or safety relief valve relieving capacity for electric boilers shall be 3-1/2 pounds per hour per kilowatt input.

3. For heating surface determination see ASME Code Section IV, Paragraph HG-403.

D. The safety valve capacity for each steam boiler shall be such that with the fuel burning equipment installed and operating at maximum capacity, the pressure cannot rise more than 5 psig above the maximum allowable working pressure.

E. When operating conditions are changed, or additional boiler heating surface is installed, the valve capacity shall be increased, if necessary, to meet the new conditions. When additional valves are required, they may be installed on the outlet piping provided there is no intervening valve.

F. If there is any doubt as to the capacity of the safety valve, an accumulation test shall be run (see ASME Code, Section VI, Recommended Rules for Care and Operation of Heating Boilers).

G. No valve of any description shall be placed between the safety valve and the boiler, nor on the discharge pipe between the safety valve and the atmosphere. The discharge pipe shall be at least full size and be fitted with an open drain to prevent water lodging in the upper part of the safety valve or in the discharge pipe. When an elbow is placed on the safety valve discharge pipe, it shall be located close to the safety valve outlet or the discharge pipe shall be securely anchored and supported. All safety valve discharges shall be so located or piped as not to endanger persons working in the area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1361 (July 2007).

#### **§5042. Safety Relief Valve Requirements for Hot Water Heating and Hot Water Supply Boilers**

A. Each hot water heating and hot water supply boiler shall have at least one ASME/National Board stamped and certified safety relief valve set to relieve at or below the maximum allowable working pressure of the boiler. Each hot water supply boiler shall have at least one ASME/National Board stamped and certified safety relief valve of the automatic reseating type set to relieve at or below maximum allowable working pressure of the boiler. Safety relief valves ASME/National Board stamped and certified as to capacity shall have pop action when tested by steam. When more than one safety relief valve is used on either a hot water heating or hot water supply boiler, the additional valve or valves shall be ASME/National Board stamped and certified and may be set within a range not to exceed 6 psig above the maximum allowable working pressure of the boiler up to and including 60 psig and 5 percent for those having a maximum allowable working pressure exceeding 60 psig. Safety relief valves shall be spring loaded. Safety relief valves shall be so arranged that they cannot be reset at a higher pressure than the maximum indicated in this Paragraph.

B. No materials liable to fail due to deterioration or vulcanization when subject to saturated steam temperature corresponding to capacity test pressure shall be used for any part.

C. No safety relief valve shall be smaller than 3/4 inch nor larger than 4-1/2 inch standard pipe size, except that boilers having a heat input not greater than 15,000 BTU per hour may be equipped with a safety relief valve of 2 inch standard pipe size. The inlet opening shall have an inside diameter approximately equal to, or greater than, the seat diameter. In no case shall the minimum opening through any part of the valve be less than 1/4 inch in diameter or its equivalent area.

D. The required steam relieving capacity, in pounds per hour, of the pressure relieving device or devices on a boiler shall be the greater of that determined by dividing the maximum output in BTU at the boiler nozzle obtained by the firing of any fuel for which the unit is installed by 1,000 or shall be determined on the basis of pounds of steam generated per hour per square foot of boiler heating surface as given in Table EHB-6. In many cases, a greater relieving

capacity of valves will have to be provided than the minimum specified by these rules.

E. When operating conditions are changed, or additional boiler heating surface is installed the valve capacity shall be increased, if necessary, to meet the new conditions. The additional valves required because of changed conditions may be installed on the outlet piping provided there is no intervening valve.

F. Safety relief valve capacity for each boiler shall be such that, with the fuel burning equipment installed and operated at maximum capacity, the pressure cannot rise more than 10 percent above the maximum allowable working pressure. When more than one safety relief valve is used, the over pressure shall be limited to 10 percent above the set pressure of the highest set value allowed.

G. If there is any doubt as to the capacity of the safety relief valve, an accumulation test shall be run (see ASME Code, Section VI, Recommended Rules for Care and Operation of Heating Boilers).

H. No valve of any description shall be placed between the safety relief valve and the boiler, nor on the discharge pipe between the safety relief valve and the atmosphere. The discharge pipe shall be not less than the diameter of the safety relief valve outlet and fitted with an open drain to prevent water lodging in the upper part of the safety relief valve or in the discharge pipe. When an elbow is placed on the safety relief valve discharge pipe, it shall be located close to the safety relief valve outlet or the discharge pipe shall be securely anchored and supported. All safety relief valve discharges shall be so located or piped as not to endanger persons working in the area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1362 (July 2007).

#### **§5043. Steam Gages**

A. Each steam boiler shall have a steam gage or compound steam gage connected to its steam space or to its water column or to its steam connection. The gage or connection shall contain a siphon or equivalent device which will develop and maintain a water seal that will prevent steam from entering the gage tube. The connection shall be so arranged that the gage cannot be shut off from the boiler except by a cock placed in the pipe at the gage and provided with a tee or lever handle arranged to be parallel to the pipe in which it is located when the cock is open. The connections to the boiler shall be not less than 1/4 inch standard pipe size, but where steel or wrought iron pipe or tubing is used, they shall not be less than 2 inch standard pipe size. The minimum size of a siphon, if used, shall be 1/4 inch inside diameter. Ferrous and nonferrous tubing having inside diameters at least equal to that of standard pipe sizes listed above may be substituted for pipe.

B. The scale on the dial of a steam boiler gage shall be graduated to not less than 30 psig nor more than 60 psig. The travel of the pointer from 0 to 30 psig pressure shall be at least 3 inches.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1632 (July 2007).

#### **§5044. Pressure or Altitude Gages and Thermometers**

A. Each hot water boiler shall have a pressure or altitude gage connected to it or to its flow connection in such a manner that it cannot be shut off from the boiler except by a cock with tee or lever handle, placed on the pipe near the gage. The handle of the cock shall be parallel to the pipe in which it is located when the cock is open.

B. The scale on the dial of the pressure or altitude gage shall be graduated approximately to not less than 1-1/2 nor more than 3 times the pressure at which the safety relief valve is set.

C. Piping or tubing for pressure or altitude-gage connections shall be of nonferrous metal when smaller than 1 inch pipe size.

D. Each hot water boiler shall have a thermometer so located and connected that it shall be easily readable when observing the water pressure or altitude. The thermometer shall be so located that it shall at all times indicate the temperature in degrees Fahrenheit of the water in the boiler at or near the outlet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1362 (2007).

#### **§5045. Water Gage Glasses**

A. Each steam boiler shall have one or more water gage glasses attached to the water column or boiler by means of valved fittings not less than 2 inch pipe size, with the lower fitting provided with a drain valve of a type having an unrestricted drain opening not less than 1/4 inch in diameter to facilitate cleaning. Gage glass replacement shall be possible under pressure. Water glass fittings may be attached directly to a boiler.

B. Boilers having an internal vertical height of less than 10 inches may be equipped with a water level indicator of the glass bulls-eye type provided the indicator is of sufficient size to show the water at both normal operating and low water cutoff levels.

C. The lowest visible part of the water gage glass shall be at least 1 inch above the lowest permissible water level recommended by the boiler manufacturer. With the boiler operating at this lowest permissible water level, there shall be no danger of overheating any part of the boiler.

D. Each boiler shall be provided at the time of manufacture with a permanent marker indicating the lowest permissible water level. The marker shall be stamped, etched, or cast in metal; or it shall be a metallic plate attached by rivets, screws, or welding; or it shall consist of material with documented tests showing its suitability as permanent marking for the application. This marker shall be visible at all times. Where the boiler is shipped with a jacket, this marker may be located on the jacket.

E. In electric boilers of the submerged electrode type, the water gage glass shall be so located to indicate the water levels both at startup and under maximum steam load conditions as established by the manufacturer.

F. In electric boilers of the resistance heating element type the lowest visible part of the water gage glass shall not be below the top of the electric resistance heating element. Each boiler of this type shall also be equipped with an automatic low-water electrical power cutoff so located as to automatically cut off the power supply before the surface of

the water falls below the top of the electrical resistance heating elements.

G. Tubular water glasses on electric boilers having a normal water content not exceeding 100 gallons shall be equipped with a protective shield.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1363 (July 2007).

#### **§5046. Stop Valves**

A. When a stop valve is used in the supply pipe connection of a single steam boiler, there shall be one used in the return pipe connection.

B. Stop valves in single hot water heating boilers shall be located at an accessible point in the supply and return pipe connections, as near the boiler nozzle as is convenient and practicable, to permit draining the boiler without emptying the system.

C. When the boiler is located above the system and can be drained without draining the system, stop valves may be eliminated.

D. A stop valve shall be used in each supply and return pipe connection of two or more boilers connected to a common system.

E. All valves or cocks shall conform to the applicable portions of HF-203 of Section IV of the ASME Code and may be ferrous or nonferrous.

F. The minimum pressure rating of all valves or cocks shall be at least equal to the pressure stamped upon the boiler, and the temperature rating of such valves or cocks, including all internal components, shall be not less than 250° F.

G. Valves or cocks shall be flanged, threaded or have ends suitable for welding or brazing.

H. All valves or cocks with stems or spindles shall have adjustable pressure type packing glands and, in addition, all plug type cocks shall be equipped with a guard or gland. The plug or other operating mechanism shall be distinctly marked in line with the passage to indicate whether it is opened or closed.

I. All valves or cocks shall have tight closure when under boiler pressure test.

J. When stop valves are used, they shall be properly designated substantially by tags of metal or other durable material fastened to them.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1363 (July 2007).

#### **§5047. Feed Water Connections**

A. Feed water, makeup water, or water treatment shall be introduced into a boiler through the return piping system. Alternatively, makeup water or water treatment may be introduced through an independent connection. The water flow from the independent connection shall not discharge directly against parts of the boiler exposed to direct radiant heat from the fire. Makeup water or water treatment shall not be introduced through openings or connections provided inspection or cleaning, safety valve, safety relief valve, blow off, water column, water gage glass, pressure gage, or temperature.

B. The makeup water pipe shall be provided with a check valve near the boiler and a stop valve or cock between the check valve and the boiler or between the check valve and the return pipe system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1363 (July 2007).

#### **§5048. Water Column and Water Level Control Pipes**

A. The minimum size of ferrous or nonferrous pipes connecting a water column to a steam boiler shall be 1 inch. No outlet connections, except for damper regulator, feed water regulator, steam gages, or apparatus which does not permit the escape of any steam or water except for manually operated blow downs, shall be attached to a water column or the piping connecting a water column to a boiler (see HG-705 of Section IV of the ASME Code for introduction of feed water into a boiler). If the water column, gage glass, low-water fuel cutoff, or other water level control device is connected to the boiler by pipe and fittings, no shutoff valves of any type shall be placed in such pipe, and a cross or equivalent fitting to which a drain valve and piping may be attached shall be placed in the water piping connection at every right angle turn to facilitate cleaning.

B. The steam connections to the water column of a horizontal fire tube wrought iron boiler shall be taken from the top of the shell or the upper part of the head, and the water connection shall be taken from a point not above the center line of the shell. For a cast iron boiler, the steam connection to the water column shall be taken from the top of an end section or the top of the steam header, and the water connection shall be made on an end section not less than 6 inches below the bottom connection to the water gage glass.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1364 (July 2007).

#### **§5049. Return Pump**

A. Each boiler equipped with a condensate return pump shall be provided with a water level control arranged to automatically maintain the water level in the boiler within the range of the gage glass.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1364 (July 2007).

#### **Subchapter D. Potable Water Heaters (Hot Water Heaters Other than Hot Water Supply Boilers)**

##### **§5052. Service Restrictions and Exceptions**

A. Potable water heaters supplying potable hot water for commercial purposes that exceed a heat input of 200,000 BTU per hour or a nominal water-containing capacity of 120 gallons, shall be designed, constructed, inspected and stamped in conformity with Part HLW of the ASME Code, Section IV.

B. Potable water heaters supplying potable hot water for commercial purposes that do not exceed a heat input of 200,000 BTU per hour or a nominal water-containing capacity of 120 gallons, but has a nominal water-containing

capacity of 50 gallons, shall be designed and constructed to underwriters laboratories or other nationally recognized standard and shall bear their label on the completed unit.

C. All other potable water heaters not otherwise exempted by the Act, shall be designed and constructed to underwriters laboratories or other nationally recognized standard and shall bear their label on the completed unit.

D. The maximum allowable working pressure of a potable water heater shall in no case exceed the pressure indicated by the manufacturer's identification stamped or cast on the heater or a plate or label secured to it. In no case shall the maximum allowable working pressure of a potable water heater exceed 160 psi or a water temperature of 210° F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1364 (July 2007).

##### **§5053. Safety Relief Valves**

A. Each potable water heater shall have at least one ASME certified pressure temperature relief valve of the automatic reseating type set to relieve at or below the maximum allowable working pressure of the potable water heater and/or no greater than 210° F. Safety relief valves officially rated as to capacity shall have pop action when tested by steam. When more than one safety relief valve is used on a potable water heater, the additional valve or valves shall be ASME rated and may be set within a range not to exceed 10 percent of the set pressure of the first valve. Safety relief valves shall be spring-loaded. Safety relief valves shall be so arranged that they cannot be reset at a higher pressure.

B. When water supply to a potable water heater exceeds 75 percent of the design pressure of the water heater, a pressure reducing valve is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1364 (July 2007).

##### **§5054. Controls**

A. Each individual automatically-fired potable water heater, in addition to the operating control used for normal water heater operation shall have a separate high limit temperature actuated combustion control that will automatically cut off the fuel supply. The temperature range of the high limit temperature actuated control shall not allow a setting over 210° F.

1. On gas-fired water heaters, the high limit temperature control when actuated shall shut off the fuel supply with a shut off means other than the operating control valve. Separate valves may have a common body.

2. On electrically-heated potable water heaters, the high limit temperature control when actuated shall cut off all power to the operating controls.

3. On oil-fired potable water heaters, the limit temperature control when actuated shall cut off all current flow to the burner mechanism.

B. All potable water heaters shall be equipped with suitable primary (flame safeguards) safety controls, safety limit switches, and burners, or electrical elements as

required by one of the following nationally recognized standards:

1. ANSI/UL 732 Standard for Safety Oil-Fired Water Heaters (UL 732);

2. ANSI Z 21.10.3 American National Standards for Gas Water Heaters, Volume III, Circulating Rank, Instantaneous and Large Automatic Storage Type water Heaters;

3. Underwriters Laboratories Inc. UL 795. Standards for Safety, Commercial-Industrial Gas-Heating Equipment;

4. Underwriters Laboratories Inc. UL 1453, Standards for Safety, Electric Booster and Commercial Storage Tank Water Heaters.

C. The symbol of the certifying organization which has investigated such as having complied with a nationally recognized standard shall be affixed to the equipment and shall be considered as evidence that controls and heat generating apparatus were manufactured in accordance with that standard. (A certifying organization is one that provides uniform testing, examination, and listing procedures under established, nationally recognized standards and that is acceptable to the jurisdiction.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1364 (July 2007).

#### **§5055. Repairs**

A. Whenever repairs are made to fittings or appliances, or it becomes necessary to replace them, the repairs must comply with Section IV of the ASME Code for new construction. Welded repairs must meet the additional requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1365 (July 2007).

### **Subchapter E. General Requirements**

#### **§5058. Notice of Internal Inspection of Boilers**

A. The owner or user of a boiler or boilers not exempted by the Act or by rules and regulations promulgated under the Act shall be provided 14 days notice of impending internal inspection requirements, by the inspector responsible for inspections of subject boiler(s). No such notice shall be required for external inspections. No inspection shall be made on Sunday or other legal holiday by an inspector employed by the Department of Public Safety except in case of accident or other emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1365 (July 2007).

#### **§5059. Preparation for Internal Inspection**

A. The owner or user shall prepare each boiler for internal inspection, and shall prepare for and apply a hydrostatic pressure test, whenever necessary, on the date arranged by the inspector. The boiler shall be prepared for internal inspection as follows.

1. Water shall be drawn off and the boiler washed thoroughly.

2. Manhole and hand hole plates, washout plugs and inspection plugs in water column connections shall be

removed as required by the inspector. The furnace and combustion chambers shall be cooled and thoroughly cleaned.

3. All grates of internally fired boilers shall be removed.

4. Insulation or brickwork shall be removed as required by the inspector in order to determine the condition of the boiler, headers, furnace, supports or other parts.

5. The pressure gauge shall be removed for testing, as required by the inspector.

6. Any leakage of steam or hot water into the boiler shall be prevented by disconnecting the pipe or valve(s) at the most convenient point or any appropriate means approved by the inspector.

7. Before opening the manhole or hand hole covers and entering any parts of the steam generating unit connected to a common header with other boilers, the non-return and steam stop valves must be closed, tagged and padlocked, and drain valves or cocks between the two valves opened. The feed valves must be closed, tagged and padlocked, and drain valves or cocks located between the two valves opened. After draining the boiler, the blow off valves shall be closed, tagged and padlocked. Blow off lines, where practicable, shall be disconnected between pressure parts and valves. All drain and vent lines shall be opened.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1365 (July 2007).

#### **§5060. Boilers Improperly Prepared for Inspection**

A. If a boiler has not been properly prepared for an internal inspection, or if the owner or user fails to comply with the requirements for a pressure test as set forth in these rules, the inspector may decline to make the inspection or test and the inspection certificate shall be withheld or the right to operate revoked, until the owner or user complies with the requirement. The owner or user shall be charged the applicable inspection fees as set by law for this missed inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1365 (July 2007).

#### **§5061. Removal of Covering to Permit Inspection**

A. If the boiler is jacketed so that the longitudinal seams of shells, drums or domes cannot be seen, sufficient jacketing, setting wall, or other form of casing or housing shall be removed to permit reasonable inspection of the seams and other areas necessary to determine the condition and safety of the boiler, provided such information cannot be determined by other means.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1365 (July 2007).

#### **§5062. Lap Seam Crack**

A. The shell or drum of a boiler, in which a lap seam crack is discovered along a longitudinal riveted joint, shall be immediately condemned. Patching is prohibited.

B. *Lap Seam Crack*—a crack found in lap seams, extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1365 (July 2007).

#### **§5063. Pressure Test**

A. A pressure test, when applied to boilers or pressure vessels, need not exceed the maximum allowable working pressure or the setting of the lowest set safety valves. The pressure shall be under proper control so that in no case shall the required test pressure be exceeded.

B. During a pressure test, the safety valve or valves shall be removed or each valve disk shall be held to its seat by means of a testing clamp and not by screwing down the compression screw upon the spring. A plug device designed for this purpose may be used.

C. The temperature of the water used to apply a hydrostatic test shall be no less than ambient temperature, but in no case less than 70° F. The maximum temperature of the water during inspection shall not exceed 120° F.

D. When a hydrostatic test is applied to determine tightness, the pressure shall be equal to the normal operating pressure but need not exceed the release pressure of the safety valve having the lowest release pressure setting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1366 (July 2007).

#### **§5064. Inspection of Power Boilers**

A. The internal and external inspections of power boilers shall meet the guidelines of Subsection C6 of the ASME Code, Section VII, Recommended Rules for Care of Power Boilers; and the National Board Inspection Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1366 (July 2007).

#### **§5065. Inspection of Heating, Supply and Potable Water Boilers**

A. The internal (when required), and the external inspections of steam and hot water heating, hot water supply and potable water boilers (hot water heaters), shall meet the guidelines of 7.09 and 8.09 of the ASME Code, Section VI, Recommended Rules for Care of Heating Boilers; and the National Board Inspection Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1366 (July 2007).

#### **§5066. Changes from Louisiana Boiler Law/Rules and Regulations**

A. On each inspection of a boiler, the inspector shall determine if changes or departures from the Louisiana Boiler Law/Rules and Regulations have taken place since the previous inspection was made.

B. If repairs have been made to a boiler, the owner or user shall provide documentation to the inspector determining if the repairs meet the requirements of these

rules and regulations. In all cases where repairs and/or replacements are made or new fittings or appurtenances are installed, the material and workmanship must comply with the Louisiana Boiler Law/Rules and Regulations for new installations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1366 (July 2007).

#### **§5067. Defective Conditions Disclosed at Time of External Inspection**

A. If, upon an external inspection, there is evidence of a leak or crack, sufficient covering of the boiler shall be removed to permit the inspector to satisfactorily determine the safety of the boiler. If the covering cannot be removed at that time, the inspector may order the boiler taken out of service until such time as the covering can be removed and proper examination made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1366 (July 2007).

#### **§5068. Unsafe Boilers**

A. Whenever the chief inspector, a deputy inspector or special inspector finds a boiler in operation or about to be placed in operation, the continued use of which constitutes an imminent hazard to life or limb, he shall order such boiler to be instantly taken out of service and/or not placed in service until proper repairs or changes have been made. He shall at that time serve a preliminary order on the owner or user ordering the use of such boiler discontinued. He shall have the owner or user sign the preliminary order, and submit the original copy to the chief inspector. He shall notify the chief inspector by telephone when a preliminary order is issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1366 (July 2007).

#### **§5069. Condemned Boilers**

A. A deputy inspector or special inspector, after having inspected a boiler and declared such boiler unfit for further service, shall notify the chief boiler inspector and submit a written report within seven calendar days of the inspection.

B. Any person, firm, partnership, or corporation using a condemned boiler shall be subject to the penalties provided by the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1366 (July 2007).

#### **§5070. Owner or User to Notify Chief Inspector of Accident**

A. When an accident occurs to a boiler, the owner or user shall, within 7 calendar days, notify the chief inspector by submitting a detailed report of the accident. In the event of a personal injury or any explosion, notice shall be given within 12 hours by telephone, telegraph or messenger, and neither the boiler, nor any parts thereof, shall be removed or disturbed before permission has been given by the chief



inspector, except for the purpose of saving human life and limiting consequential damage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1366 (July 2007).

#### **§5071. Automatic Low Water Fuel Cutoff and/or Water Feeding Device**

A. Each automatically fired steam boiler shall have an automatic low-water fuel cutoff so located as to automatically cut off the fuel supply when the surface of the water falls to the lowest visible part of the water gauge glass. If a water feeding device is installed, it shall be so constructed that the water inlet valve cannot feed water into the boiler through the float chamber and so located as to supply requisite feed water. Such a fuel cutoff or water feeding device shall comply with HG-606 of the ASME Code, Section IV.

B. Each automatically fired hot water heating boiler with heat input greater than 400,000 BTU/hr shall have an automatic low-water fuel cutoff which has been designed for hot water service, and it shall be located as to automatically cut off the fuel supply when the surface of the water falls to the lowest safe water level established by the boiler manufacturer. Such low-water fuel cutoff shall comply with HG-614 of the ASME Code, Section IV.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1367 (July 2007).

#### **§5072. Pressure Reducing Valves**

A. Where pressure reducing valves are used, one or more safety relief valves shall be provided on the low pressure side of the reducing valve when the piping or equipment on the low pressure side does not meet the requirements for the full initial pressure. The safety or safety relief valves shall be located adjoining or as close as possible to the reducing valve. Proper protection shall be provided to prevent injury or damage caused by the escaping fluid from the discharge of the safety relief valves if vented to the atmosphere. The combined discharge capacity of the safety or safety relief valves shall be such that the pressure rating shall not be exceeded in case the reducing valve fails in the open position.

B. The use of hand controlled bypasses around the reducing valves are permissible. If a bypass is used around the reducing valve, the safety valve required on the low pressure side shall be of sufficient capacity to relieve all the fluid that can pass through the bypass without overpressuring the low pressure side.

C. A pressure gauge shall be installed on the low pressure side of the reducing valve.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1367 (July 2007).

#### **§5073. Boiler Blow Off Equipment**

A. The blow down from a boiler that enters a sanitary sewer system or blow down which is considered a hazard to life or property shall pass through some form of blow off equipment that will reduce the pressure leaving the blow

down equipment to not more than 5 psi, and the temperature to no more than 150° F.

B. All blow off equipment shall be fitted with openings to facilitate cleaning and inspection and shall conform to the recommended rules for National Board Boiler Blow off Equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1367 (July 2007).

#### **§5074. Location of Discharge Piping Outlets**

A. The discharge of safety valves, blow off pipes and other outlets shall be located and supported so as to prevent injury to personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1367 (July 2007).

#### **§5075. Repairs or Alterations**

A. Where repairs or alterations to a boiler are necessary, an authorized inspector shall be called for consultation and advice as to the best method of making such repairs or alterations. After such repairs or alterations are made, they shall be reviewed by and found acceptable to an authorized inspector. Organizations making repairs or alterations shall be qualified in accordance with the rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1367 (July 2007).

#### **§5076. Supports**

A. Each boiler shall be supported by masonry or structural supports of sufficient strength and rigidity to safely support the boiler and its contents. There shall be no excessive vibration in either the boiler or its connecting piping.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1367 (July 2007).

#### **§5077. Boiler Door Latches**

A. A water tube boiler shall have the firing doors of the inward opening type, unless such doors are provided with substantial and effective latching or fastening devices or otherwise so constructed as to prevent them, when closed, from being blown open by pressure on the furnace side.

B. These latches or fastenings shall be of the positive self-locking type. Friction contacts, latches, or bolts actuated by springs shall not be used. The foregoing requirements for latches or fastening shall not apply to coal openings of downdraft or similar furnaces.

C. All other doors, except explosion doors, not used in the firing of the boiler, may be provided with bolts or fastenings in lieu of self-latching devices.

D. Explosion doors, if used and if located in the setting walls within 7 feet of the firing floor or operating platform, shall be provided with substantial deflectors to divert the blast.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1367 (July 2007).

**§5078. Clearance**

A. When boilers are replaced or new boilers are installed in either existing or new buildings, they shall be so located that adequate space will be provided for the proper operation of the boilers and their appurtenances, for the inspection of all surfaces, tubes, water walls economizers, piping, valves and other equipment, and for their necessary maintenance and repair and replacement tubes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1368 (July 2007).

**§5079. Ladders and Runways**

A. When necessary for safety, there shall be a steel runway or platform of standard construction installed across the tops of adjacent boilers or at some other convenient level for the purpose of affording safe access. All walkways shall have at least two means of exit, each to be remotely located from the other.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1368 (July 2007).

**§5080. Exit from Boiler Room**

A. All boiler rooms exceeding 500 square feet floor area and containing one or more boilers having a fuel burning capacity 1,000,000 BTU/hr., or equivalent electrical heat input, shall have at least two means of exit. Each shall be remotely located from the other. Each elevation in such boiler room shall have two means of exit, each remotely located from the other.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1368 (July 2007).

**§5081. Air and Ventilation Requirements-Combustion Air Supply and Ventilation of Boiler Room**

A. A permanent source of outside air shall be provided for each boiler room to permit satisfactory combustion of the fuel as well as proper ventilation of the boiler room under normal operating conditions.

B. The total requirements of the burners for all fired pressure vessels in the boiler room must be used to determine the louver sizes whether fired by coal, oil or gas; however, the minimum net free louvered area must not be less than 1 square foot. The following table or formula shall be used to determine the net louvered area in square feet.

Input (Btu/Hour)	Required Air (Cu/Ft/Min)	Minimum Net Louvered Area (Sq. Ft.)
500,000	125	1.0
1,000,000	250	1.0
2,000,000	500	1.6
3,000,000	750	2.5
4,000,000	1,000	3.3
5,000,000	1,250	4.1
6,000,000	1,500	5.0
7,000,000	1,750	5.8

Input (Btu/Hour)	Required Air (Cu/Ft/Min)	Minimum Net Louvered Area (Sq. Ft.)
8,000,000	2,000	6.6
9,000,000	2,250	7.5
10,000,000	2,500	8.3

(BTUH ) 10,000) X 2.5 = CFM - 300 /dfm per sq. ft. of net required area.

C. When mechanical ventilation is used in lieu of Subsection A above, the supply of combustion and ventilation air to the boiler room and the firing device shall be interlocked with the fan so the firing device will not operate with the fan off. The velocity of the air through the ventilating fan shall not exceed 500 feet per minute and the total air delivered shall be equal to or greater than shown in Subsection B above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1368 (July 2007).

**§5082. Gas Burners**

A. For installations which are gas fired, the burners used shall conform to the applicable requirements of the American Gas Association or other nationally recognized standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1368 (July 2007).

**§5083. Attendance on Power Boilers**

A. No power boiler while in active service, i.e., that portion of time when the main stop valves are open and the fires are burning, shall be left unattended longer than it will take the water level to drop from the normal operating level in the water gauge glass, or by indicating devices or recorders, when the feed water is shut off and the boiler is forced to its maximum capacity unless the following are complied with:

1. the boiler is equipped with an audible alarm that will operate when the water reaches the highest and/or the lowest permissible operating level, or, for boilers having no fixed steam or water line, when the highest permissible operating temperature is reached. The audible alarm shall be sufficiently loud that it can be plainly heard at the most remote point from the boiler that the attendant is required to work; and

2. the boiler is equipped with two independently connected low water safety devices that will shut off the fuel to the burner or burners when the water reaches the lowest permissible operating level, or, for boilers having no fixed steam or water line, when the highest permissible operating temperature is reached. These devices shall require manual resetting; or

3. the attendant shall personally check the operation of the boiler, the necessary auxiliaries, and the water level in the boiler at such intervals as are necessary to insure safe operation of the boiler, and in no case shall this exceed 120 minutes.

B. The operation of the automatic controls shall be checked at the beginning of each shift.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1368 (July 2007).

#### **§5084. Restamping of Boilers**

A. When the stamping on a boiler becomes indistinct, the inspector shall instruct the owner or user to have it restamped. Request for permission to restamp the boiler shall be made to the chief inspector and proof of the original stamping shall accompany the request. The chief inspector may grant such authorization. Restamping authorized by the chief inspector shall be done only in the presence of an authorized inspector, and shall be identical with the original stamping. If the ASME Code symbol is to be restamped, it may only be done by the original manufacturer of the boiler in the presence of the inspector who signed the manufacturers data report. Notice of completion of such restamping shall be filed with the chief inspector by the inspector who witnessed the stamping on the boiler, together with a facsimile of the stamping applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1369 (July 2007).

#### **§5085. Moving of Boilers**

A. When a boiler is moved from one setting to another setting, the owner or user thereof shall furnish the chief inspector with a notice of change in location, and shall have the boiler inspected by an authorized inspector prior to firing of the boiler at the new location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1369 (July 2007)

#### **§5086. Safety Appliances**

A. No person shall attempt to remove or do any work on any safety appliance prescribed by these rules and regulations while the appliance is subject to pressure.

B. Should any of these appliances be removed for repair during an outage of the boiler, they must be reinstalled and in proper working order before the boiler is again placed in service.

C. No person shall alter any safety or safety relief valves or pressure relief devices in any manner to maintain a working pressure in excess of that stated on the boiler inspection certificate.

D. Repairs to safety or safety relief valves shall be made only by organizations qualified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1369 (July 2007).

#### **§5087. Variations**

A. Any person who believes the rules and regulations promulgated by the assistant secretary are unreasonable or impose an undue burden upon the owner or user, may request a variation from such rule or regulation. The request shall be in writing and shall specify how equivalent safety is to be maintained. The assistant secretary, after investigation

and such hearing as he may direct, may grant such variation from the terms of any rule or regulation provided such special conditions as may be specified are maintained in order to provide equivalent safety.

B. When there is a reason to believe, or upon receipt of a complaint that a variation does not provide freedom from danger equivalent to the published rule or regulation, the assistant secretary, after notice to the owner or user and complainant after such hearing and investigation as he may direct, may continue to in force, suspend, revoke or modify the conditions specified in any variation. No declaration, act or omission of the assistant secretary, or the chief inspector, deputy inspector or special inspectors other than a written order authorizing a variation as permitted above, shall be deemed to exempt, either wholly or in part, expressly or implied, any owner or user from full compliance with the terms of any rule or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1369 (July 2007).

#### **§5088. Conditions not Covered by these Rules and Regulations**

A. For any condition not covered by these rules and regulations, the applicable provisions of the ASME Code or the National Board Inspection Code shall apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1369 (July 2007).

#### **§5089. Suggestions for Operations**

A. It is suggested that the Recommended Rules for Care of Power Boilers, Section VII, and the Recommended Rules for Care and Operation of Heating Boilers, Section VI of the ASME Code, be used as a guide for proper and safe operating practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:531 and R.S. 51:1424.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 33:1369 (July 2007)

Jill P. Boudreaux  
Undersecretary

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#### **RULE**

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

Third Party Providers (LAC 55:VI.905)

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730:22(C) and (D) and R.S. 40:1730.26(1) relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Code Council hereby adopts the following Rule which will establish Title 55:VI.905 of the Louisiana Administrative Code.

**Title 55  
PUBLIC SAFETY**

**Part VI. Uniform Construction Code**

**Chapter 9. Temporary Exemption to Certification Requirement**

**§905. Third Party Providers**

A. Third party providers who are Louisiana licensed architects or engineers and who obtain a certificate of registration after January 1, 2007, shall be granted a provisional certificate for registration without certification by a recognized code organization. This provisional certificate shall expire on December 31, 2007. Thereafter, any third party provider renewing this certification of registration shall satisfy the certification requirement(s) as set forth in §703.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety, State Uniform Construction Code Council, LR 33:1370 (July 2007).

Jill P. Boudreaux  
Undersecretary

0707#013

**RULE**

**Department of Transportation and Development  
Office of Real Estate**

Appraisal Handbook for Fee Appraisers  
(LAC 70:XVII.Chapter 5)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development has amended a Section entitled "Appraisal Handbook for Fee Appraisers", in accordance with the provisions of R.S. 48:441 et seq.

**Title 70  
TRANSPORTATION  
Part XVII. Real Estate**

**Chapter 5. Appraisal Handbook for Fee Appraisers**

**§501. Purpose**

A. A vital and very basic requirement of a right-of-way operation is the procurement of real estate appraisals, prepared by a competent and knowledgeable appraiser, which are complete and well documented.

B. Of no less importance is the need for appraisal reviews by a skilled and knowledgeable reviewer who is thorough, practical and complete.

C. The purpose of this rule is to provide fee appraisers and fee review appraisers with a handy reference for information on procedures, available materials and department requirements for real estate appraisal reports with the intention of standardizing procedures to insure uniform practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1370 (July 2007).

**§503. Overview of the Purpose of the Appraisal and Appraisal Requirements**

A. The laws of Louisiana provide that compensation must be paid for the value of real property or rights taken. The value of the real property or rights taken must be based on the premise of the highest and best use or the most profitable, legal and likely use for which a property may be utilized. The opinion of such use may be based on the highest and most profitable continuous use for which the property is adapted or likely to be used for a reasonable future time. However, elements affecting value which depend upon events or a combination of events which, while possible, are not reasonably probable, should be excluded from consideration. Also, if the intended use is dependent upon an uncertain act of another person, the intention cannot be considered.

B. The appraiser should perform an analysis of the market demand giving consideration to the highest and best use. Where a property is composed of more than a single highest and best use, the appraiser must type, value and support each portion separately, i.e., front land/rear land highest and best uses. Where different uses and values of property are being acquired, each use and corresponding value must be stated separately thereby complying with the state laws and compensating for the full value of the partial acquisitions. Based on the highest and best use, the appraiser must set forth a reasonable and factual explanation indicating his/her support, reasoning and documented conclusions.

C. All market data, comparable sales, forms, etc., which are referred to within the report and are pertinent to the fair market value of the property being appraised, shall be collected and cited for the project and ownership for which the appraisals are being written. Simply referring to data used for other projects or appraisals is not acceptable.

D. All recognized appraisal procedures and approaches to value: the cost approach, the market approach and the income approach, which apply to the property under appraisal, are to be considered by the appraiser and utilized if found to be applicable. If an approach is found not applicable to the property being appraised, there shall be included a concise and detailed reasoning as to its shortcomings. The appraiser shall explain the reason(s) in the correlation of value as to why one or more approaches are more applicable to his/her estimate of market value and/or why the other approach or approaches are less applicable to the property being appraised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 29:2857 (December 2003), LR 33:1370 (July 2007)

**§505. Scope of Work**

A. The LDOTD, acquiring real property, has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the appraisal problem.

B. The scope of work and development of an appraisal under these requirements depends on the complexity of the appraisal problem.

C. The LDOTD has the responsibility to assure that the appraisals it obtains are:

1. relevant to its program needs;
2. reflect established and commonly accepted Federal and federally assisted program appraisal practice, and
3. as a minimum, complies with the definitions of "appraisal" in 49 CFR §24.2(a)(3).

D. They must also meet the five following requirements:

1. an adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including:
  - a. items identified as personal property;
  - b. a statement of the known and observed encumbrances, if any;
  - c. title information;
  - d. location;
  - e. zoning;
  - f. present use;
  - g. analysis of highest and best use; and
  - h. at least a five-year sales history of the property;
2. all relevant and reliable approaches to value consistent with established federal and federally assisted program appraisal practices. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value;
3. a description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction;
4. a statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate;
5. the effective date of valuation;
6. date of appraisal;
7. signature; and
8. certification of the appraiser.

E. The scope of work statement should include the purpose and/or function of the appraisal, a definition of the estate being appraised (if it is fair market value, include its applicable definition), and the assumptions and limiting conditions affecting the appraisal. The term *scope of work* defines the general parameters of the appraisal. It reflects the needs of the LDOTD and the requirements of federal and federally-assisted program appraisal practice. It should be developed cooperatively by the assigned appraiser and an LDOTD official who is competent to both represent the department's needs and respect valid appraisal practice. The scope of work statement should include the purpose and/or function of the appraisal, a definition of the estate being appraised, and if it is market value, its applicable definition, and the assumptions and limiting conditions affecting the appraisal. It may include parameters for the data search and identification of the technology, including approaches to value, to be used to analyze the data. The scope of work should consider the specific requirements in 49 CFR 24.103(a) (1) through (5) and address them as appropriate. Section 24.103(a)(1). The appraisal report should identify the items considered in the appraisal to be real property as well as those identified as personal property. Section

24.103(a)(2). All relevant and reliable approaches to value are to be used. However, where a department determines that the sales comparison approach will be adequate by itself and yield credible appraisal results because of the type of property being appraised and the availability of sales data, it may limit the appraisal assignment to the sales comparison approach. This should be reflected in the scope of work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1370 (July 2007).

#### **§507. Application for Approval as Fee Appraiser**

A. Application must be submitted to the Real Estate Administrator prior to inclusion of said appraiser on the LDOTD Approved Panel of Fee Appraisers. The form asks several general questions concerning the appraiser's personal and appraisal background in order to gain insight into the appraiser's experience, qualifications and training. If qualified, the appraiser may complete that section of the application for inclusion within said application. Upon completion of the application and acceptance by the Appraisal Office, the Assistant Real Estate Administrator will recommend to the Real Estate Administrator that the appraiser be placed on the Approved Panel of Fee Appraisers. Upon approval, the Assistant Real Estate Administrator will notify the appraiser of his/her approval and request that the appraiser read and sign one of two copies of the Agreement for Appraisal Services and return a single copy to the Appraisal Office for processing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1371 (July 2007).

#### **§509. Qualifications of Fee Appraisers**

A. Upon the appraiser's initial request for a Fee Appraiser Application Packet, the Assistant Real Estate Administrator will notify the appraiser of the receipt of the request and provide the necessary forms to be completed. Those forms will include a letter stating the minimum requirements to be considered for employment by the LDOTD Appraisal Office. If the appraiser meets the qualification requirements of the LDOTD and is approved for employment, he/she will be included on the Approved Panel of Fee Appraisers. The minimum requirements for acceptance of Fee Appraisers on the LDOTD's Approved Panel of Fee Appraisers are as follows.

1. The appraiser must be a Certified Appraiser pursuant to the Louisiana Certified Real Estate Appraiser Law.
2. The appraiser must follow the appraisal standards as set forth by the Uniform Standard of Professional Appraisal Practice (USPAP).
3. The appraiser must follow the appraisal standards as set forth by the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA).

B. Many of the fee appraisal work required by the department involve properties required for projects in which federal funds are utilized. Therefore, all reports must meet LDOTD and FHWA requirements for each project assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1371 (July 2007).

#### **§511. Conduct of Appraiser**

A. Each fee appraiser is a representative of the Louisiana Department of Transportation and Development. It is important that he/she be courteous and considerate in dealing with the property owners or their representatives. This is particularly important since the appraiser may be the first LDOTD representative to make contact with the owners.

B. The appraiser shall include documentation to indicate the date and extent of his contact with the property owners. Should the appraiser fail to contact the owners, he/she shall document the efforts to locate the owners. It is recommended that contact be made initially by certified letter as a method of documentation. The appraiser should not express to the owners, owner's representatives or any occupants an opinion relating to the value he/she might establish for this or any other properties upon the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1372 (July 2007).

#### **§513. Fee Review Appraiser Qualifications**

A. Only those individuals on the Approved Panel of Fee Appraisers can be considered for fee review appraisal assignments. The minimum requirements for a fee review appraiser are as follows:

1. the appraiser must be Certified General Appraiser pursuant to the Louisiana Certified Real Estate Appraiser Law;

2. must have a minimum of four years full time experience in appraising real property for a condemning authority;

3. must have experience in appraising the types of properties within the scope of work for the project under consideration and/or any other requirements deemed relevant for the project under consideration;

4. the appraiser must follow the appraisal standards as set forth by the Uniform Standards of Professional Appraisal Practice (USPAP);

5. the appraiser must follow the appraisal standards as set forth by the Uniform Appraisal Standards for Federal Land Acquisitions.

B. Many of the fee appraisal work required by the department involve properties required for projects in which federal funds are utilized. Therefore, all reports must meet LDOTD and FHWA requirements for each project assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1372 (July 2007).

#### **§515. Agreement for Appraisal Services**

A. The Agreement for Appraisal Services is a document which every fee appraiser employed by the LDOTD is required to sign. The agreement sets out the parameters within which the department and the appraiser will co-operate as well as sets forth the details and requirements that must be met within the appraisal report. The appraiser should be very familiar with all of the requirements

contained within this agreement. The signed form, after its execution, will be placed in the appraiser's file and need not be re-signed with each contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1372 (July 2007).

#### **§517. Contract for Appraisal Services**

A. The Contract for Appraisal Services is the form utilized by LDOTD in obtaining the services of fee appraisers on a given project. The contract sets forth the requirements for each appraisal requested and sets a completion date by which the assignment must be submitted. The contract binds LDOTD and the fee appraiser until such time as the assignment is complete or the contract has been terminated. However, work on a contract should not begin until a "Letter of Authorization" is received instructing the appraiser to begin.

B. The appraiser should examine the agreement in detail and should be particularly aware of the time element set up within the contract. The LDOTD operates its construction program through a schedule of contract letting and the appraiser's failure to meet the time requirement of the contract can have damaging effects upon the overall completion of a project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1372 (July 2007).

#### **§519. Contract Extensions**

A. It is the policy of LDOTD that contract completion dates shall not be extended past the original due date. However, while all due diligence should be taken to meet the contract requirements, it is sometimes necessary to extend a contract. Just cause must be documented by the appraiser and a letter of request presented to the LDOTD Appraisal Office with adequate lead time to process the request through the appropriate channels prior to the contract completion date. In the event a completion date is not met and an extension has not been granted, the contract will be considered voided. Payment cannot be made for outstanding appraisals. At the discretion of the Appraisal Office, it may become necessary to contract another appraiser to complete the project assignment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1372 (July 2007).

#### **§521. Appraisal Formats**

A. Appraisals are to be reported, in most cases, on Forms A, B or C. Please refer to the format illustrations included within the body of this handbook.

B. All formats will include, but are not limited to, the applicable pages listed within the individual formats; a Certificate of the Appraiser, comparable sales and maps, improvements, floor plans and/or plot plans, flood maps, zoning maps, provided right of way maps, statement of limiting conditions, any references made during the report, a copy of the owner's notification letter, property inspection documentation and the Estimate of Compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1372 (July 2007).

### **§523. Interest Being Appraised**

A. The interest being appraised is full ownership, less mineral rights. Each appraisal will show an estimated value of the total interest held. No breakdown of individual interests, other than lease fee/leasehold interests, held in the ownership should be made except as specifically instructed by the LDOTD. However, servitude and/or similar encumbrances on properties being appraised should be investigated and reported within the appraisal report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1373 (July 2007).

### **§525. Highest and Best Use**

A. In an assignment, it is required that the appraiser fully analyze the highest and best use of a parcel and include that analysis within the appraisal report as a detailed and concise narrative. There are locations where the highest and best use is obvious. At other locations, evaluation for highest and best use renders limited possibilities. If that is the case and a detailed analysis is not warranted, a less detailed written analysis is acceptable.

B. In cases where it is necessary to estimate the highest and best use of an improved parcel, the focus is on the existing use as well as all potential alternate uses. To correctly accomplish the goal, the appraiser must analyze the highest and best use as improved and as vacant.

C. Often, the existing use will be the highest and best use and that conclusion may be clearly obvious to the appraiser. The discussion within the report need not be as detailed as with a different or changing highest and best use.

D. The support of the appraiser's opinion is most critical in the not so obvious situations when the appraiser may need to respond to inquiries by the reviewer appraiser or an attorney. Because the highest and best use determinations affect the value conclusion, an unsupported estimate of the highest and best use may lead to unnecessary and costly litigation for both the LDOTD and the property owners.

E. When the highest and best use is estimated to be different from the existing use, the appraiser is essentially concluding that the present improvements no longer provide an acceptable return of the investment for that purpose. This generally occurs when the value of land in an area, due to changing conditions, increases to such a degree that it approaches or exceeds the value as improved. In cases such as this, a detailed analysis and discussion will be required utilizing accepted appraisal techniques.

F. The appraiser must substantiate the existence of demand for the proposed use; that the physical features of the property would accommodate that use; that the use is compatible with zoning requirements or a reasonable probability exists for re-zoning and there are no restrictions that would preclude that use.

G. Another item for consideration within the highest and best use evaluation is the recognition and adherence to the "Consistent Use Theory". Basically, a property in transition to another use cannot be valued on the basis of one use for

the land and another for the improvements. This may introduce the possibility of an interim use. Sometimes an improvement is not the proper improvement to maximize the value of the whole property. There may be some type of interim use of that improvement which may be utilized until such time as the land can be put to its highest and best use. This improvement may be valued by ascertaining the amount of temporary income derived during the interim period or a value based upon the use of the interim improvement for another highest and best use until a proper improvement can be justified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1373 (July 2007).

### **§527. Land Valuation**

A. For the determination of land values, a careful and thorough investigation of sales of nearby comparable lands is to be made. The report is to include sufficient information to show that the appraised values of land are adequate, reasonable and well supported by actual comparable sales. Any adjustments made to a comparable sale will be fully supported and soundly reasoned based upon facts gathered within the local real estate market of the project assignment. In the case of a special use property or a limited local market, the appraiser may search for comparable data and utilize any data located outside of the actual market area of the subject project. These requirements apply to an after value appraisal as well.

B. When an appraiser is assigned to a project, he/she will be required to compile and submit all comparable sales data to the LDOTD Appraisal Office. This is generally referred to as the Master Binder. This Master Binder will be submitted by a prearranged date as set out in the Contract for Appraisal Services or verbally agreed upon between the Review Appraiser and the Fee Appraiser.

C. The LDOTD Appraisal Office may furnish market data forms to the appraiser upon request. These forms are to be used in all cases to report the market data information developed by the appraiser. The appraisers may develop their own forms but must include the information required within the LDOTD form.

D. It is not considered improper for an appraiser to obtain information about a sale from another appraiser provided the information is limited to factual information such as vendor, vendee, consideration, recordation, date of sale and legal description. The comparable information received from another appraiser should not include any analysis of the comparable sales, i.e., breakdown of land and improvements, analysis of a time factor or any other adjustment. The appraiser of record through verification or their own judgment must determine those items. This verification must be made with a party to the sale, i.e., seller, buyer, the closing agency, the broker handling the transaction and the verification of recordation which is the only avenue of verification not based upon statements of persons other than the appraiser (UASFLA Section B-4, page 38)(49CFR, Part 24, Subpart B, 24.103).

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1373 (July 2007).

#### **§529. Valuation of the Entire Tract**

A. The value determined for an entire tract is to be the value before the acquisition of the required right-of-way absent of any influence of the proposed project construction. The estimated value shall be as of the date of the appraisal study unless the appraiser is otherwise instructed by the project review appraiser or within the Contract for Appraisal Services.

B. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, is to be disregarded in determining the compensation for the required property.

C. Under most circumstances, the value estimate is to include the entire tract, based upon the highest and best use, and is to include all items of real property unless instructed otherwise within the Contract for Appraisal Services. The appraiser may include only a portion of a whole property if, in the highest and best use determination, he/she finds that the portion of the ownership affected by the acquisition is a separate "Economic Use Tract"; the determination is supported and clearly understandable; and the review appraiser concurs in the determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1374 (July 2007).

#### **§531. Valuation of the Remainder**

A. The value estimate attributed to the remainder is a separate and singular appraisal problem. The appraiser is required to perform a complete appraisal of the remainder.

B. Reference may be made to factual data contained within the "before" appraisal as it pertains to the after appraisal. However, the Appraiser is to separately analyze and document the data to form his/her conclusions within the "after" appraisal.

C. The estimated value of the remainder is to be a realistic appraisal of value. It is required that the appraiser employ all three approaches when they are applicable to the appraisal problem. If and when an approach is not considered applicable, justification shall be provided.

D. The remainder value is not simply a value representing the difference between the value of an entire tract or use tract less the value of the required right-of-way, but is a well-supported and carefully analyzed value estimate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1374 (July 2007).

#### **§533. Valuation of the Improvements**

A. When buildings or other improvements are located partially or wholly within the proposed right-of-way, the appraisal is to be made on the basis that the LDOTD will purchase the improvements. In only a few rare situations

will an appraisal be made on the basis of the purchase of a portion of a major improvement or the cost to relocate a major improvement on-site. In such situations, the appraisal report is to fully explain the justification for not buying the entire building. In assigning appraisals, the project Review appraiser will specify whether an improvement will be purchased or a cost-to-cure will be provided for the appraiser's use.

B. In the case of a severed building that is not specified as a whole acquisition, the appraiser shall include within the report the cost to restore the remaining improvement to its former utility and usefulness. A cost-to-cure does not necessarily alleviate other damages to an improvement or a remainder. Other damages may include a loss of utility or a change in access.

C. In some instances, an improvement is located substantially outside of the right-of-way with only a minor portion projecting into the required area and removal of the portion within the right-of-way would leave the major portion of the building reasonably suitable for use on the remaining site. When estimating damages under this scenario, the appraiser will be required to consider the more feasible of the two following possibilities:

1. the remainder of the improvements may possibly remain adjacent to the right-of-way line with a possible loss of value due to its position relative to the new right of way coupled with other possible damages as discussed above; or

2. the entire improvement may be moved to a more advantageous location on the remaining site. In this case, the damage estimate would be based on the cost of moving the improvement and restoring it to a new location. These costs will not exceed the damages which would occur if the basis of the estimate were a cost to re-face a portion of the improvement located within the right-of-way nor will they exceed the cost to purchase the improvement as a whole.

D. The appraiser is to fully analyze each scenario and follow the path that is the most cost-effective in order to restore the owner to a position equal to that "before" the acquisition. However, it will rarely be requested that a "cut and re-face" or "move back" cure be used. These types of cures will be utilized in only very special cases where other, better accepted methods could not be utilized.

E. There may be within the proposed taking items that would be classified as part of the realty. These items may include machinery, fixtures, pumps, underground tanks, and water or air lines, pump islands, etc. These items may be the property of a lessor or a lessee. If the appraiser's assignment is to include these types of items, the items shall be valued based upon their contributory value to the whole property. If these items are determined to be a liability, then the value estimate should reflect that determination as well. The determination as to which items will be included within the report will be made by the project review appraiser with the input of the appraiser.

F. It is expected that appraisers employed by LDOTD will be qualified to estimate the cost of improvements generally encountered such as residences and appurtenant improvements. The issuance of a contract by LDOTD is sufficient evidence of the department's approval of the appraiser's expertise in such circumstances. However, in certain instances where high value improvements are to be acquired or affected, the LDOTD may obtain and furnish to



the appraiser reproduction and/or replacement costs and/or cost-to-cure estimates by special agreement with a building contractor, professional engineer, registered surveyor, cost estimator or other specialist. In such cases, the use of special consultants will be provided for in a separate employment agreement in which the consultant is identified and provisions made for the consultant to be available for testimony in the event of condemnation proceedings. All required materials will be provided to the appraiser for use within the appraisal report, if the appraiser so chooses.

G. Unless specifically provided for in the Contract for Appraisal Services, the LDOTD will not pay additional amounts above the fee per parcel established for services to compensate for quotes or services of contractors or other specialists obtained by the appraiser. The fee of the appraiser is to compensate for providing a complete appraisal satisfactory to the purpose of the LDOTD. The appraisal report shall comply with the Agreement for Appraisal Services and the Contract for Appraisal Services as stated. Any findings of a consultant employed to aid in making an appraisal must be included and clearly identified within the appraisal report if accepted by the appraiser. If the findings of the consultant are not acceptable to the appraiser, he/she will include their own supported estimate or the justification for providing items which are not utilized.

H. A partial acquisition may result in damages to a remainder property that may be reduced or eliminated by construction of access roads, relocation of driveways or some other design modification. When the appraiser feels justified in requesting a study to determine the feasibility of such modification, he/she may make a request to the Project Review Appraiser for such modification. When merited, the LDOTD will provide the appraiser with the engineering and construction costs to be weighed against damage items as they may be mitigated. This procedure is intended to assure a realistic estimate of damage based upon cost to cure estimates which may or may not be practical from an engineering standpoint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1374 (July 2007).

### **§535. Completeness of Appraisal and Appraisal Reports**

A. The investigation is to be thorough and the appraisal report is to furnish adequate and reasonable information that fully explains and justifies determinations contained within the appraisal report.

B. The appraiser must complete all applicable appraisal criteria in accordance with the LDOTD requirements and USPAP and UASFLA as set forth in the Agreement for Appraisal Services. Any departure shall require full justification.

C. The fee appraisal work required by the LDOTD involves properties required for projects in which federal or state funds are utilized. Therefore, all reports must meet FHWA requirements for each project assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1375 (July 2007).

### **§537. Role of the Cost Consultant**

A. Quite often it becomes necessary for the Appraisal Office to contract the services of individuals other than appraisal experts. More often than not those persons are cost consultants. These consultants are those who are trained and/or experienced in the construction industry with knowledge of and access to construction costs and related areas of expertise. The consultant may be asked to provide such items as reproduction and replacement costs, cost to cure items damaged by the required acquisition or costs for comparison purposes which would not be included within an appraisal report. The cost consultant is there to provide a service to the appraiser and LDOTD and should provide costs as requested and in conjunction with all other consultants that will utilize the estimate. The cost consultant is responsible to the project review appraiser as well as the appraiser(s) of record.

B. The cost consultant is to work hand in hand with the appraiser and review appraiser. Although he is the most qualified to judge construction costs, the appraiser is the person responsible for all values used within the appraisal report.

C. Just like the appraiser, the cost consultant is required to contact all property owners and allow them the opportunity to accompany the consultant during the property inspection. In the case of the cost consultant, it is absolutely necessary to inspect all improvements due to the nature of the assignment. Only in very rare situations would it be possible to complete a consultant assignment without, at least, a rudimentary inspection of improvements. This would only be acceptable when an owner refuses entrance upon the subject site or within the subject improvements.

D. As mentioned earlier, the responsibility for the use of a cost estimate, whether replacement cost, reproduction cost, cost to cure or other cost assignment belongs to the appraiser. Therefore, it is absolutely necessary that the appraiser and the cost consultant work together. The cost consultant is responsible for the estimated costs where reproduction and replacement is concerned.

E. However, he and the appraiser must agree on the factual data such as the size of the improvement, location upon the site, minor improvements, etc. When a cost to cure is required, the cost consultant must provide a method of cure that is agreeable to both the appraiser and review appraiser in order for the assignment to be considered as acceptable and payment made. Therefore, the cost consultant and the appraiser(s) should inspect the subject property together, if possible, and at the least confer and compare factual data and proposed cures prior to submission of the contracted estimate for review. The provided reports shall contain a breakdown of the components required in a reproduction, replacement or cost to cure estimate and will quote a source of justification for said costs. Utilization of Marshall and Swift only is not acceptable. Therefore, when the costs provided are utilized by the appraiser, it is required that the cost consultant's report be included within the appraisal report.

F. The appraiser, as the one ultimately responsible for the costs quoted within his/her report will contact the review appraiser should a provided cost estimate not be suitable for inclusion within an appraisal report. However, the review appraiser should have made a determination prior to receipt

of said report by the appraiser. The review appraiser will then contact the consultant and discuss the situation and the appraiser's concerns. Should it be found that revision is warranted, the cost consultant will be responsible for that revision. Payment for services rendered will be withheld until such time as acceptable revisions or corrections are submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1375 (July 2007).

### **§539. The Role of the Review Appraiser**

A. The review appraiser, whether staff or consultant, has an important function and duty to his employer and is an essential element in the overall valuation procedure. The duties involved in the acceptable performance of his job include but are not limited to the following:

1. determines the scope of work for all fee consultants and/or staff utilized in the appraisal process. This includes appraisers, cost consultants, foresters, hydrologists, geologists, accountants, etc.;

2. provides contracts for all consultants based upon the determination of the scope of work;

3. supervises the appraisers and all other fee consultants employed for the duration of appraisal process;

4. insure that all reports utilized meet all applicable standards, policies, laws and regulations at both the state and federal levels;

5. verifies all data used in the appraisal reports with the appraisers providing the reports. This is to include inspecting subject properties and comparable sales;

6. substantiates that all factual data submitted by the appraisers is consistent. If not, the reviewer is to determine the correct data and have the discrepancies revised;

7. appraisal reports and/or other reports required for the appraisal process are approved only when it is determined the reports meet all laws, regulations, policies, procedures, etc. The review appraiser shall have all discrepancies or problems rectified prior to approving appraisal reports for negotiation. Reports that do not meet the qualifications shall not be approved and payment will not be forthcoming;

8. the review appraiser insures that value determinations are consistent based upon the criteria set forth to determine the market value of the properties being appraised. Inconsistencies shall always be corrected;

9. documentation of the review process shall be maintained within the project files;

10. the reviewer recommends the compensation due the property owner based upon the conforming reports provided. In the event the department utilizes a contract review appraiser, it will be understood the department shall approve the Estimate of Compensation;

11. review appraisers are also responsible for the inspection and approval of review assignments contracted to consultant review appraisers. This duty involves assuring the review is conducted in the manner stated above.

B. A qualified review appraiser shall examine the presentation and analysis of market information in all appraisals to assure that they meet the definition of appraisal found in 49 CFR 24.2(a)(3), appraisal requirements found in 49 CFR 24.103 and other applicable requirements,

including, to the extent appropriate, the UASFLA and support the appraiser's opinion of value. The level of review analysis depends on the complexity of the appraisal problem. As needed, the review appraiser shall, prior to acceptance, seek necessary corrections or revisions. The review appraiser shall identify each appraisal report as recommended (as the basis for the establishment of the amount believed to be compensation), accepted (meets all requirements, but not selected as recommended or approved), or not accepted. If authorized by the LDOTD to do so, the staff review appraiser shall also approve the appraisal (as the basis for the establishment of the amount believed to be compensation), and, if also authorized to do so, develop and report the amount believed to be compensation.

C. If the review appraiser is unable to recommend (or approve) an appraisal as an adequate basis for the establishment of the offer of compensation, and it is determined by the acquiring LDOTD that it is not practical to obtain an additional appraisal, the review appraiser may, as part of the review, present and analyze market information in conformance with §24.103 to support a recommended (or approved) value.

D. The review appraiser shall prepare a written report that identifies the appraisal reports reviewed and documents the findings and conclusions arrived at during the review of the appraisal(s). Any damages or benefits to any remaining property shall be identified in the review appraiser's report. The review appraiser shall also prepare a signed certification that states the parameters of the review. The certification shall state the approved value, and, if the review appraiser is authorized to do so the amount believed to be compensation for the acquisition.

E. In short, the review appraiser recommends compensation, clarifies and corrects appraisal deficiencies, corroborates the appraiser's conclusions, performs professional technical assistance to his employer, secures proper performance from the appraiser, documents the review performance, gives final organization approval regarding appraisal and valuation matters, operates in an autonomous position not subject to directed reviews, confers with management on valuation matters and is fully knowledgeable as to the requirements, problems and objectives of the organization he represents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1376 (July 2007).

### **§541. Establishment and Payment of Fees**

A. Appraisal fees shall be established by the project review appraiser based upon a fee estimate compiled during on-site inspection of the subject project. Concurrence will be obtained from the appraiser prior to submission of a Contract for Appraisal Services. The fee schedule will be contained within the Contract for Appraisal Services and will delineate between the fee for individual reports and the total contract fee established for the subject project.

B. Invoices submitted by the appraiser shall consist of three copies or one if submitted electronically (e-mail). Each shall include the date, state project number, federal aid project number (if applicable), project title, route number and parish. Please note that the invoice must delineate between projects and parcels assigned to that particularly

project. Also required within the invoice will be the contracted fee for each report submitted for disposition, a statement that payment has not been received for the submitted invoice and the appraiser's signature. A digital signature may be used for all forms submitted.

C. The LDOTD Appraisal Office will not process any invoice submitted by an appraiser for personal services rendered the LDOTD unless the fee has been previously established by written contract, approved by all necessary parties and authorization to proceed has been forwarded to the consultant. Invoices may not be dated or forwarded to LDOTD prior to the authorization date established within the Authorization to Proceed form letter forwarded to the appraiser by the LDOTD Real Estate Administrator.

D. In addition, no invoice will be paid prior to the project review appraiser's approval of the individual reports submitted, having found them to be satisfactory to the requirements of LDOTD as stated within the Contract for Appraisal Services and the Agreement for Appraisal Services. Any individual report found not to meet the necessary requirements as set forth shall be corrected by the appraiser to the satisfaction of the project review appraiser prior to payment of the agreed upon fee for that particular ownership. No payment will be made for reports submitted following the contracted assignment completion date. At that point, the contract is voided and a new contract must be approved and authorization received through the established channels prior to payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1376 (July 2007).

#### **§543. Types of Appraisal Formats**

A. Upon the receipt of approved right of way plans, the assigned project review appraiser will make an on-site inspection and examination of each parcel on the project. Based upon that inspection, the review appraiser will determine which appraisal format shall be necessary for each parcel or parcels based upon the complexity of the appraisal problem. That determination will include:

1. the number of appraisals;
2. the format of appraisals;
3. the estimated fees;
4. the estimated appraisal contract completion date.

B. The Contract for Appraisal Services will set out the parcel number, fee and the format for each appraisal to be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1377 (July 2007).

#### **§545. Form A**

A. The form is designed as a complete, detailed appraisal of an ownership, including all land and improvements, using all applicable approaches. In effect, this is two separate appraisals, "before" the acquisition and "after" the acquisition, pertaining to partial acquisitions only. Each segment, before and after, is to be completed in detail and separate from the other. All approaches to value are to be utilized in detail when applicable. Any feasibility study shall be included within the report.

B. This form will include the following pages or reasonable facsimiles of them within the report. All pages from the title page to the required exhibits shall be included. At the discretion of the appraiser, additional pages may be included. The following pages required are:

1. Before Acquisition Analysis:
  - a. Title Page;
  - b. Table of Contents;
  - c. Letter of Transmittal;
  - d. Summary of Salient Facts and Conclusions;
  - e. Basis for Summary of Fair Market Value;
  - f. Title Data;
  - g. Discussion of the Appraisal Problem;
  - h. Photos of the Subject Property;
  - i. Neighborhood Data;
  - j. Site Data;
  - k. Statement of Highest and Best Use;
  - l. Comparable Land Sales and Listings Analysis;
  - m. Correlation and Indication of Land Value;
  - n. Improvements;
  - o. Floor Plan;
  - p. Cost Data Approach to Value;
  - q. Source and Justification of the Cost Approach;
  - r. Market Data Approach to Value;
  - s. Income Data Approach to Value;
  - t. Correlation of the Whole Property Value and Allocation of Value;
  - u. Required Right of Way;
2. After Acquisition Analysis:
  - a. Site Data;
  - b. Statement of Highest and Best Use;
  - c. Comparable Land Sales and Listings Analysis;
  - d. Correlation and Indication of Land Value;
  - e. Improvements;
  - f. Floor Plan;
  - g. Cost Data Approach;
  - h. Source and Justification of the Cost Approach;
  - i. Market Data Approach to Value;
  - j. Income Data Approach;
  - k. Correlation of the After Value and Allocation of Value;
3. Analysis of Other Considerations (Additional Compensation);
  - m. Final Estimate of Value;
  - n. Certificate of the Appraiser;
  - o. Addenda:
    - i. Assumptions and Limiting Conditions;
    - ii. Vicinity, Strip and Remainder Maps;
    - iii. Property Inspection Report;
    - iv. Owner Notification Letter;
    - v. FIRM Maps;
    - vi. Comparable Sales and Maps
    - vii. Zoning Maps (if applicable);
    - viii. Estimate of Compensation;
    - ix. Others at the discretion of the Appraiser and/or Review Appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 29:2858 (December 2003), LR 33:1377 (July 2007).

**§547. Form B**

A. The form is designed as a complete, detailed appraisal of an entire ownership, including all land and improvements using all applicable approaches unless instructed to do otherwise by the project review appraiser. This format is utilized most often to value an ownership that will be totally within a required area.

B. The following pages shall be required within the form. Other pages may be included at the discretion of the appraiser:

1. Title Page;
2. Table of Contents;
3. Letter of Transmittal;
4. Summary of Salient Facts and Conclusions;
5. Basis for Summary of Fair Market Value;
6. Title Data;
7. Discussion of the Appraisal Problem;
8. Photos of the Subject Property;
9. Neighborhood Data;
10. Site Data;
11. Statement of Highest and Best Use;
12. Comparable Land Sales and Listings Analysis;
13. Correlation and Indication of Land Value;
14. Improvements;
15. Floor Plan;
16. Market Data Approach to Value;
17. Income Data Approach to Value;
18. Cost Data Approach to Value;
19. Source and Justification of the Cost Approach;
20. Correlation of the Whole Property Value and Allocation of Value;
21. Required Right of Way;
22. Analysis of Other Considerations (Additional Compensation);
23. Final Estimate of Value;
24. Certificate of the Appraiser;
25. Addenda:
  - a. Assumptions and Limiting Conditions;
  - b. Vicinity, Strip and Remainder Maps;
  - c. Property Inspection Report;
  - d. Owner Notification Letter;
  - e. FIRM Maps;
  - f. Comparable Sales and Maps;
  - g. Zoning Maps (if applicable);
  - h. Estimate of Compensation;
  - i. Others at the discretion of the Appraiser and/or Review Appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 29:2858 (December 2003), LR 33:1378 (July 2007).

**§549. Form C**

A. The form is designed to be used only on simple acquisitions. The form does not require detailed discussions of the items listed, but the determinations made by the appraiser must be conclusive and based upon market support.

B. If during the appraisal assignment the appraiser finds that there are damages or benefits to the ownership by reason of the project, the appraiser is not to proceed with

Form C but is to notify the project review appraiser. The review appraiser will then decide which form to utilize and will amend the appraisal contract to reflect those changes by format and fee schedule. Furthermore, when utilizing this form, it will be necessary for the appraiser to include the following statement within the body of the certificate:

"No damages or loss to the remainder of the Owner's property resulted from this partial acquisition, therefore, pursuant to LA. R.S. 48:453 B, no after appraisal is required."

C. The following pages are to be included within the report and may include others upon the discretion of the Appraiser:

1. Title Page;
2. Table of Contents;
3. Letter of Transmittal;
4. Summary of Salient Facts and Conclusions;
5. Basis for Summary of Fair Market Value;
6. Title Data;
7. Photos of the Subject Property;
8. Neighborhood Data;
9. Site Data;
10. Statement of Highest and Best Use;
11. Comparable Land Sales and Analysis;
12. Correlation of Land Value;
13. Required Right of Way;
14. Certificate of the Appraiser;
15. Addenda:
  - a. Assumptions and Limiting Conditions;
  - b. Vicinity, Strip and Remainder Maps;
  - c. Property Inspection Report;
  - d. Owner Notification Letter;
  - e. FIRM Maps;
  - f. Comparable Sales and Maps;
  - g. Zoning Maps (if applicable);
  - h. Estimate of Compensation;
  - i. Others at the discretion of the Appraiser and/or Review Appraiser.

Review Appraiser.

D. All of the above-described forms are guides for submittal of acceptable reports. The appraiser may develop his/her own form, within reason. However, the form developed must include the information and detail required above and should be of the same basic format.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 29:2858 (December 2003), LR 33:1378 (July 2007).

**§551. Estimate of Compensation**

A. The appraiser is to submit a Certificate of Estimate of Compensation as denoted by LDOTD. The certificate will state the estimated compensation due the owner for a particular acquisition. This form will be included within the addenda of the appraisal report for the use of LDOTD's Legal Division when filing suit, when necessary. Other copies of this form may be forwarded to the project review appraiser to be placed in the project file for later use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1378 (July 2007).

### **§553. Personal Property**

A. The appraisal report should identify the items considered in the appraisal to be real property, as well as those identified as personal property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1379 (July 2007).

### **§555. Signs**

A. When estimating the market value of on-site advertising signs for businesses, whether owner occupied or not, the market value of the sign will be determined by the Appraiser (ex.: RCN – DEPR. = MV).

B. Off-site advertising signs (billboard) values are determined by the appraiser based upon the market value (ex.: RCN – DEPR. = MV). The review appraiser will then provide, with the help of a construction cost consultant, the replacement cost new of this type of sign to be included within the recommended offer as per LDOTD policy. If the sign can not be replaced; then, other means of valuation may be utilized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1379 (July 2007).

### **§557. Items Excluded from Appraisals**

A. Typically, moving expenses of owners and tenants rightfully in possession of real estate are reimbursable in accordance with the Louisiana Relocation Assistance Law which provides for the reasonable expenses of moving personal property. The actual cost of moving expenses is provided by the relocation assistance officer for use of the property owners or tenants, and is not determined by the appraiser. Therefore, no moving expenses for personal property should be included within the appraisal report under normal circumstances.

B. The following items should be excluded from the appraisal report:

1. moving expenses for personal property;
2. estimated costs of relocations; or
3. adjustments or repairs of such items as public utilities, service connections for water, sewer, mobile homes, additions, etc., which will be caused by the required acquisition unless those costs are included within the Contract for Appraisal Services as "cost-to-cure" items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 29:2857 (December 2003), LR 33:1379 (July 2007).

### **§559. Control of Access**

A. Within the Contract for Appraisal Services, the project review appraiser will instruct the appraiser which appraisal format to use in the valuation of ownership's affected by control of access. The appraiser, in most circumstances will analyze the effects of control of access after the acquisition in much the same way as any "before and after" appraisal problem. A full analysis with all due documentation as to findings shall be included within the report.

B. All due diligence will be taken in consideration of the possible or probable use of a remainder that is influenced by control of access. The Appraiser should acquaint himself fully with LDOTD's and the owner's rights concerning access control and the legal determination as to the compensability or non-compensability for instances where LDOTD exercises this control. The appraiser should consult with LDOTD through the review appraiser, project engineers, district managers, the legal division, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1379 (July 2007).

### **§561. Mineral Rights**

A. The LDOTD and the state of Louisiana do not generally acquire mineral rights. The property owner will retain the mineral rights beneath the area conveyed to the state. While the owner will be prohibited from exploring or drilling for or mining for oil, gas or other minerals of any kind within the area acquired, the owner may employ directional drilling from adjacent lands to extract such minerals, if possible. In cases where solid minerals are affected, i.e., those other than oil and gas, the appraiser, with the concurrence of the review appraiser, is to provide values for the affected minerals.

B. In some situations or markets, it may be typical to transfer mineral rights. If that occurs, the appraiser is to analyze the value of the rights transferred through the use of market sales and make adjustments, if warranted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1379 (July 2007).

### **§563. Timber Value**

A. For assignments in which timber-producing lands are involved, particularly in areas where timber is grown for commercial purposes, it will generally be necessary to value the land and the timber separately. In some instances, it may become the responsibility of the appraiser to abstract the timber and land value from market sales of whole property timberland tracts. However, due to the specialized nature of timber appraisal, the LDOTD will most often secure the services of a registered forester to supply the value of timber upon a project or particular site. In those instances, the appraiser will provide the value of the raw land and include the value of the timber, as provided by the forester, within the report.

B. In situations where the appraiser determines that the highest and best use of a tract is a greater use than timberland, the value of the timber will nevertheless be included within the report as an improvement item. However, at the appraiser's and review appraiser's discretion, the contributory value to the "highest and best use" may be zero.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1379 (July 2007).

### **§565. Crop Value**

A. Prior to appraisal assignments, a determination shall be made by LDOTD Real Estate Titles and Acquisition personnel stating whether there is sufficient time prior to the right-of-way acquisition to allow harvesting of crops planted within the required area. If there is adequate time, the Real Estate Titles and Acquisition personnel will not be required to consider the compensation for crops. If time is limited, the Real Estate Titles and Acquisition personnel will estimate the value of the crop, and that sum will be included in the approved offer. Typically, the appraiser will not be involved in estimating the value of crops unless specifically requested to do so by the project review appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1380 (July 2007).

### **§567. Lease Interests**

A. The appraiser is to inquire into the leases of subject properties whenever that possibility exists. That inquiry most particularly applies to improvements owned by a lessee. A review of a lease will be made by the appraiser so as to familiarize himself/herself with the terms and conditions of the lease. Any findings or conclusions shall be included within the appraisal report.

B. The appraiser is to value the whole property and is to establish the value to be assigned to each interest in that ownership. The appraiser is to value all lease fee and leasehold interests and is to provide a breakdown of those values within the appraisal report to include the portion acquired and estimated damages, should they apply.

C. In situations where a lease is recorded, that information will be supplied the appraiser within the provided Title Research Report. Discovery of unrecorded leases are the responsibility of the appraiser. The appraiser shall inquire as to the existence of such leases and shall provide an opportunity for such disclosure to the property owner within the required Owner Notification Letter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1380 (July 2007).

### **§569. Fencing Value**

A. Front fencing owned by the property owner is to be bought or replaced if it is of contributory value to the land. Front farm/ranch fencing will normally be replaced or rebuilt by the project construction contractor on the owner's property in order to restore the enclosure.

B. Side (cross) fencing will be removed and will not be replaced. Compensation will be paid for said fencing. All fencing, whether front or side, is to be valued within the report and delineated by parcel and orientation.

C. Special purpose/ornamental fencing is to be compensated at cost new or replacement cost when it is feasible to replace. However, if the fence will not be replaced by the owner or cannot be replaced due to the acquisition, the depreciated cost or market value is to be utilized within the compensation estimate. This shall always apply to side fencing which, by its nature, cannot be replaced. If the right of way is acquired by expropriation, the value is deposited in the registry of the court. In either

instance, the existing fence will be removed by the project construction contractor.

D. All fences constructed on controlled access highways for the purpose of controlling access will be built and maintained by LDOTD. Fences built along frontage roads or cross roads on controlled access facilities for the benefit of the property owner will be built off the highway right of way and will be maintained by the property owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1380 (July 2007).

### **§571. Construction and Drainage Servitudes**

A. There are two types of servitudes commonly encountered by the appraiser that must be included in the valuation process of the appraisal. They are the "construction" servitude and the "drainage" servitude.

B. The construction servitude is a temporary servitude providing access for construction purposes to areas outside the required right of way. The compensation for this servitude is based upon the estimated unit land value multiplied by a rate set by the appraiser. That figure is then multiplied by the area within the servitude. The rate utilized is a rate of return that is consistent with investment return rates commonly accepted within the current local market. The appraiser is to apply the calculated estimate for a four year term based upon a yearly rental. That total rental is to be included within the estimate of the compensation.

C. The drainage servitude is a permanent servitude acquiring a number of rights. The acquisition partially includes right of entry and subsurface rights other than mineral rights. The ownership is greatly limited by the nature of the usage and compensation will be greater than that estimated for the construction servitude. The process of calculation is identical to that of the construction servitude, however, the rate utilized will be based on the permanent loss of rights. Generally, 80 percent to 90 percent rates will be used. Ultimately, the appraiser will decide upon the value of the rights taken and to what extent they will be permanently lost. This value will be included within the estimate of the compensation. In circumstances where a remaining area of an ownership is damaged due to a partial acquisition, estimated damages to any permanent servitude will apply only to that portion of the Bundle of Rights that remain after the acquisition of the rights required of the servitude.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1380 (July 2007).

### **§573. Railroad Parcel Acquisition**

A. LDOTD will pay the appraised market value of interest acquired from railroad companies for any additional right of way required from their right of way property.

B. Railroad parcels will be divided into two categories. One will be designated an RR parcel at railroad crossings. Any other takings from railroad properties will have a normal parcel identification of which we will offer the estimated market value for interest acquired. LDOTD will acquire the RR parcels as a right of way servitude with the railroad company retaining their rights for railroad passage

at our proposed joint crossings. Designation and appraisal of the railroad acquisition at crossings as servitudes is to allow the compensation for only those rights acquired. Only those rights acquired should be compensated for within the appraisal.

C. The LDOTD Appraisal Office is responsible for establishing the value of the various types of railroad acquisitions. The appraisal of railroad properties is based on market value and the interest acquired from the railroad companies. The appraiser should take into consideration the following:

1. size and shape of the railroad ownership;
2. topography;
3. location;
4. adjoining usage;
5. value of the required area before construction versus value after construction; and
6. any adverse effect that the acquisition will have on the utility of the property.

D. These types of acquisitions from railroad properties will be appraised as follows.

1. At crossings, the LDOTD will obtain a bundle of rights similar to the rights which the railroad company will be retaining. In most cases, the appraisal of a right of way crossing should reflect a value range of zero to a maximum of 50 percent of fair market value. However, the actual percentage of value will be estimated by the appraiser. The type of construction at crossings could have a varying effect upon the percentage utilized. The different types of construction at crossings are as follows.

a. Grade crossings are those where railroad tracks and proposed roadways are at the same level. This type of construction could have the greatest effect upon the utility of the property.

b. Above grade construction or an overpass should have little effect on the utility. However, consideration should be given to pier placement and its adverse effects, if any, on the railroad property.

c. Below grade construction or an underpass is the third type of possible construction at crossings.

2. All other acquisitions from railroad right of way in excess of crossings shall be appraised and the estimated market value will be offered in relation to the interest that the LDOTD acquires. In most cases, the LDOTD will appraise and offer 100 percent of market value. However, in the case of servitude acquisition, the LDOTD will offer compensation in accordance with the interest estimated to be acquired by the appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1380 (July 2007).

#### **§575. Property Inspection with the Owner(s)**

A. A reasonable effort shall be made to contact and meet with the owners or their designated representatives in order to afford them the opportunity to accompany the appraiser on inspection of the property being appraised. The appraiser is not obligated to meet the owner at any place other than the property being appraised or the nearest point of public access to the property being appraised.

B. Tasks for the Appraiser to Perform in Making Contact with the Owner(s)

1. Mail a form letter along with a stamped, addressed return envelope. All owners listed on provided title research reports are to be afforded an opportunity to meet. A copy will be forwarded to the District Real Estate Manager, the project review appraiser and included within the appraisal report. It is recommended that the letter to the owners be transmitted by certified mail.

2. Telephone contact is acceptable if it is followed by a detailed written report of owner contact including the name of the person(s) contacted, time of meeting and date. Copies must be sent to the District Real Estate Manager, project review appraiser, and included within the appraisal report.

C. The site inspection shall not be made until the following criteria are met:

1. a meeting is scheduled with the owner(s); or
2. the owner(s) replies that he/she/they do not wish to accompany the appraiser on the site inspection; or
3. three weeks have passed since the date of the notification letter mailing to the owner(s), there is no reply and the letter is not returned "undeliverable".

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1381 (July 2007).

#### **§577. Owners Refusal to Permit Entry**

A. There may be times when a property owner refuses to permit appraisers employed by LDOTD to enter the property for an on-site inspection, measurement, photography or interview. There is a standard procedure to follow if this should happen.

B. The appraiser should stay off of the property but shall make every effort to examine the property from as many vantage points as possible. The appraiser shall make a careful inspection of all available records including ASCS maps and aerial photographs, U.S. Geodetic Survey contour maps, tax records, building inspector records, etc. As many and varied photos should be taken as deemed prudent.

C. As a matter of procedure, the appraiser will notify the project review appraiser of the situation and clearly set forth that he/she was not permitted to enter upon the property and that the report is predicated upon certain assumptions. Those assumptions shall be noted. Also to be listed will be the sources of information used as a basis for those assumptions.

D. When the appraisal report is forwarded to the Appraisal Office for review, a determination will be made by the project review appraiser whether or not to pursue legal action to obtain access to the property. The project review appraiser will make every effort to inspect the property from any vantage point possible prior to forwarding a recommendation of action.

E. When the appraisal is approved and the recommended offer is furnished for processing, negotiation will be initiated on that basis. The Real Estate Titles and Acquisition Agent conducting the negotiations will make every reasonable effort to observe the property in question for the purpose of further verification of the appraiser's assumptions. If radical variation appears to exist, the Appraisal Office will be advised before continuing the negotiations. If the recommended offer is not accepted, eminent domain proceedings will be resorted to and entry by court order will be obtained at that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1381 (July 2007).

**§579. Update of Appraisals**

A. Occasionally, it may become necessary for the appraiser to update appraisals from the original date of valuation to the current date or to a specified date of acquisition. If this should become necessary, the project review appraiser will initiate a contract specifying the required date of valuation, the fee schedule and the completion date for the assignment. All contracts to update shall be as per a specific completion date so as to give ample time for the appraisals to be reviewed by the project review appraiser prior to negotiations.

B. All updated appraisals, where there are value changes by reason of time lapse, shall be supported by updated comparable sales data gathered within the project neighborhood. If sufficient sales data is not available within the subject neighborhood, the appraiser should investigate similar type properties in more removed areas as support for updated values.

C. Updated appraisals shall be submitted to the Appraisal Office for review and if warranted, a revised Estimate of Value will be issued by LDOTD for the purpose of negotiation and acquisition. When the appraiser is required to revise, supplement or otherwise update the appraisal report, no matter the format employed, a revised or updated "Certificate of Appraiser" and "Estimate of Compensation" shall be submitted with the revisions or updates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1382 (July 2007).

Johnny B. Bradberry  
Secretary

0707#041

**RULE**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**General and Wildlife Management Area Hunting  
(LAC 76:XIX.111)**

The Wildlife and Fisheries Commission does hereby promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part XIX. Hunting and WMA Regulations**

**Chapter 1. Resident Game Hunting Season**

**§111. General and Wildlife Management Area  
Hunting Rules and Regulations**

A. Hunting Seasons and Wildlife Management Area Regulations

1. The rules and regulations contained within this digest have been officially approved and adopted by the Wildlife and Fisheries Commission under authority vested

by Sections 115 and 116 of Title 56 of the Louisiana Revised Statutes of 1950 and are in full force and effect in conjunction with all applicable statutory laws. The Secretary of the Department of Wildlife and Fisheries has the authority to close or alter seasons in emergency situations in order to protect fish and wildlife resources.

2. Pursuant to Section 40.1 of Title 56 of the Louisiana Revised Statutes of 1950, the Wildlife and Fisheries Commission has adopted monetary values which are assigned to all illegally taken, possessed, injured or destroyed fish, wild birds, wild quadrupeds and other wildlife and aquatic life. Anyone taking, possessing, injuring or destroying fish, wild birds, wild quadrupeds and other wildlife and aquatic life shall be required to reimburse the Department of Wildlife and Fisheries a sum of money equal to the value of the wildlife illegally taken, possessed, injured or destroyed. This monetary reimbursement shall be in addition to any and all criminal penalties imposed for the illegal act.

**B. Resident Game Birds and Animals**

1. Shooting Hours—one-half hour before sunrise to one-half hour after sunset.

**C. Other Season Dates**

1. Turkey—please refer to separate pamphlet.

2. Raccoon and Opossum—no closed season.

Raccoon and opossum can be taken at night by one or more licensed hunters with one or more dogs and one .22 rimfire firearm. A licensed hunter may take raccoon or opossum with .22 rimfire rifle, .36 caliber or smaller muzzleloader rifle or shotgun during daylight hours during the open rabbit season. Hunting from boats or motor vehicles is prohibited. No bag limit for nighttime or daytime raccoon or opossum hunting during the open trapping season except on certain WMAs as listed. The remainder of the year, the raccoon and opossum bag limit for daytime or nighttime is one per person per day or night. No one who hunts raccoons or opossums as prescribed above shall pelt during the closed trapping season nor sell skins or carcasses of raccoons and opossums taken during the open trapping season unless he is the holder of a valid trapping license which shall be required in addition to his basic hunting license. Pelting or selling carcasses is illegal during closed trapping season.

3. Nutria—on WMAs and private property nutria may be taken recreationally by licensed hunters from September 1 through the last day of February, during legal shooting hours by any legal hunting method with a daily limit of five. When taken with a shotgun, steel shot must be used. On WMAs during waterfowl seasons, nutria may be taken only with the use of shotguns with shot no larger than F steel, and during gun deer seasons, anyone taking nutria must display 400 square inches of "Hunter Orange" and wear a "Hunter Orange" cap or hat. Recreational nutria hunters must remove each nutria carcass in whole condition from the hunting area, except that nutria may be gutted. Possession of detached nutria parts, including nutria tails, by recreational hunters is illegal. Nutria harvested recreationally may not be pelted nor may such nutria or any nutria parts from recreationally taken nutria be sold, including the tail. Trespassing upon private property for the purpose of taking nutria or other furbearing animals is punishable by fines and possible jail time (R.S. 56:265). The Coastwide Nutria Control Program is a separate program and is in no way related to the nutria



recreational season. For questions on the Coastwide Nutria Control Program, call the New Iberia office (337) 373-0032.

4. Blackbirds and Crows—the season for crows shall be September 1 through January 1 with no limit; however crows, blackbirds, cowbirds and grackles may be taken year round during legal shooting hours if they are depredate or about to depredate upon ornamentals or shade trees, agricultural crops, livestock, wildlife, or when concentrated in such numbers as to cause a health hazard. Louisiana has determined that the birds listed above are crop depredate and that crows have been implicated in the spread of the West Nile virus in humans.

5. Falconry. Special permit required—resident and migratory game species except turkeys may be taken. Seasons and bag limits are the same as for statewide and WMA regulations. Refer to LAC 76:V.301 for specific Falconry Rules.

6. Licensed Hunting Preserve—October 1-April 30—pen-raised birds only. No limit entire season. Refer to LAC 76:V.305 for specific Hunting Preserve Rules.

7. Deer Management Assistance Program (DMAP)—land enrolled in the voluntary program will be assessed a \$25 registration fee and \$0.05/acre fee. Deer management assistance tags must be in the possession of the hunter in order to harvest an antlerless deer. The tag shall be attached through the hock in such a manner that it cannot be removed before the deer is transported (including those taken on either-sex days and those taken with bow or muzzleloader). Antlerless deer harvested on property enrolled in DMAP does not count in the season bag limit for hunters. Failure to do so is a violation of R.S. 56:115. Failing to follow DMAP rules and regulations may result in suspension and cancellation of the program on those lands involved. Refer to LAC 76:V.111 for specific DMAP Rules.

8. Landowner Assistance Deer Tag (LADT)

a. Eligibility for LADT is limited to the following landowners or lessees:

- i. license deer farmers;
- ii. landowners or lessees with less than 500 acres who have verified deer depredate problems;
- iii. landowners with 40 acres or more enrolled in the Louisiana Forest Stewardship Program; and
- iv. landowners or lessees with 40 or more contiguous acres of forested or marsh land.

b. Each applicant will be assessed a \$25 administrative processing fee. Each hunter must have the Landowner Antlerless Deer Tag in his possession while hunting on the property for which the tag was issued and immediately upon kill of an antlerless deer, the hunter must tag the animal through the hock. The deer must be tagged before it is transported from the site of kill and the tag will remain with the deer while the hunter is in route to his domicile. Antlerless deer harvested on property enrolled in LADT does not count in the season bag limit for hunters. For more information, contact any Wildlife Division Regional Office.

9. Farm Raised White-tailed Deer and Exotics on Licensed Supplemented Shooting Preserves

a. Definitions

*Exotics*—for purposes of this rule means any animal of the family Bovidae [except the Tribe Bovini (cattle)] or Cervidae which is not indigenous to Louisiana

and which is confined on a Supplemented Hunting Preserve. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

*Hunting*—in its different tenses and for purposes of this rule means to take or attempt to take, in accordance with R.S. 56:8.

*Same as Outside*—for purposes of this rule means hunting on a Supplemented Hunting Preserve must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana Revised Statutes and as established annually by the Wildlife and Fisheries Commission (LWFC).

*Supplemented Hunting Preserve*—for purposes of this rule means any enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the Department of Wildlife and Fisheries (LDWF) and is authorized in writing by the LDAF and LDWF to permit hunting.

*White-Tailed Deer*—for purposes of this rule means any animal of the species *Odocoileus virginianus* which is confined on a Supplemented Hunting Preserve.

b. Seasons:

i. farm-raised white-tailed deer—consult the regulations pamphlet;

ii. exotics—year round.

c. Methods of Take:

i. white-tailed deer—same as outside;

ii. exotics—exotics may be taken with longbow (including compound bow) and arrow; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber centerfire; or muzzleloading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets only.

d. Shooting Hours:

i. white-tailed deer—same as outside;

ii. exotics: one-half hour before sunrise to one-half hour after sunset.

e. Bag Limit:

i. farm-raised white-tailed deer—same as outside;

ii. exotics—no limit.

f. Hunting Licenses:

i. white-tailed deer—same as outside;

ii. exotics—no person shall hunt any exotic without possessing a valid basic and big game hunting license.

g. Tagging—white-tailed deer and exotics—each animal shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the LDAF. The tag shall remain with the carcass at all times.

10. Bobcat—no person other than the holder of a valid big game license may take or possess bobcat, except licensed trappers who may take or possess bobcat during the open trapping season. A big game licensee shall only take bobcat during the time period from one-half hour before sunrise to one-half hour after sunset with a bow and arrow, shotgun, muzzleloader or centerfire firearm. A big game

licensee shall not take more than one bobcat per calendar year. This regulation applies only to property that is privately owned and does not apply to state wildlife management areas and refuges, the Kisatchie National Forest, federally owned refuges and lands owned by the Corps of Engineers.

#### D. Hunting-General Provisions

1. A basic resident or non-resident hunting license is required of all persons to hunt, take, possess or cause to be transported by any other person any wild bird or quadruped. See information below for exceptions.

2. All persons born on or after September 1, 1969 must show proof of satisfactorily completing a Hunter Safety course approved by LDWF to purchase a Basic Hunting License, EXCEPT any active or veteran member of the United States armed services or any POST-certified law enforcement officer. Application for the exemption shall be filed in person at the Department of Wildlife and Fisheries main office building in the city of Baton Rouge. A person younger than 16 years of age may hunt without such certificate if he is accompanied by, and is under the direct supervision of a person 18 years of age or older, EXCEPT during a statewide youth deer hunt.

3. A big game license is required in addition to the basic hunting license to hunt, take, possess or cause to be transported any deer. A separate wild turkey license is required in addition to the basic hunting license and the big game license to hunt, take, possess or cause to be transported any turkey.

4. Taking game quadrupeds or birds from aircraft or participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

#### 5. Methods of Taking Resident Game Birds and Quadrupeds

a. It is illegal to intentionally feed, deposit, place, distribute, expose, scatter, or cause to be fed, deposited, placed, distributed, exposed, or scattered raw sweet potatoes to wild game quadrupeds.

b. Use of a longbow (including compound bow) and arrow or a shotgun not larger than a 10 gauge fired from the shoulder without a rest shall be legal for taking all resident game birds and quadrupeds. Also, the use of a handgun, rifle and falconry (special permit required) shall be legal for taking all game species except turkey. It shall be illegal to hunt or take squirrels or rabbits at any time with a breech-loaded rifle or handgun larger than a .22 caliber rimfire or a muzzleloader rifle larger than .36 caliber. During closed deer gun season, it shall be illegal to possess shotgun shells loaded with slugs or shot larger than BB lead or F steel shot while small game hunting.

c. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs is prohibited when or where a still hunting season or area is designated, and will be strictly enforced. Shotguns larger than 10 gauge or capable of holding more than three shells shall be prohibited. Plugs used in shotguns must be incapable of being removed without disassembly. Refer to game schedules contained within these regulations for specific restrictions on the use of firearms and other devices.

6. Nuisance Animals—landowners or their designees may remove beaver and nutria causing damage to their

property without a special permit. Water set traps and firearms may be used to remove beaver; nutria may be removed by any means except that nutria cannot be taken by the use of headlight and gun between the hours of sunset and sunrise. With a special permit issued by the department, beavers may be taken between one-half hour after official sunset to one-half hour before official sunrise for a period of three consecutive calendar evenings from the effective date of the permit. For specific details contact a regional office near you. Any nuisance beaver or nutria trapped or shot outside open trapping season cannot be pelted or sold. A trapping license is required to sell or pelt nuisance beavers or nutria taken during open trapping season. Squirrels found destroying commercial crops of pecans may be taken year-round by permit issued by the department. This permit shall be valid for 30 days from the date of issuance. Contact the local regional office for details.

7. Threatened and Endangered Species—Louisiana black bear, Louisiana pearl shell (mussel), sea turtles, gopher tortoise, ringed sawback turtle, brown pelican, bald eagle, peregrine falcon, whooping crane, Eskimo curlew, piping plover, interior least tern, ivory-billed woodpecker, red-cockaded woodpecker, Bachman's warbler, West Indian manatee, Florida panther, pallid sturgeon, Gulf sturgeon, Attwater's greater prairie chicken, whales and red wolf. Taking or harassment of any of these species is a violation of state and federal laws.

8. Unregulated Quadrupeds—holders of a legal hunting license may take coyotes, unmarked hogs where legal, and armadillos year round during legal daylight shooting hours. The running of coyotes with dogs is prohibited in all turkey hunting areas during the open turkey season. Coyote hunting is restricted to chase only when using dogs during still hunting segments of the firearm and archery only season for deer. Foxes are protected quadrupeds and may be taken only with traps by licensed trappers during the trapping season. Remainder of the year "chase only" allowed by licensed hunters.

9. Hunting and/or Discharging Firearms on Public Roads. Hunting, standing, loitering or shooting game quadrupeds or game birds with a gun during open season while on a public highway or public road right-of-way is prohibited. Hunting or the discharge of firearms on roads or highways located on public levees or within 100 feet from the centerline of such levee roads or highways is prohibited. Spot lighting or shining from public roads is prohibited by state law. Hunting from all public roads and rights-of-way is prohibited and these provisions will be strictly enforced.

10. Tags. Any part of the deer or wild turkey divided shall have affixed thereto the name, date, address and big game license number of the person killing the deer or wild turkey and the sex of that animal. This information shall be legibly written in pen or pencil, on any piece of paper or cardboard or any material, which is attached or secured to or enclosing the part or parts. On lands enrolled in DMAP, deer management assistance tags must be attached and locked through the hock of antlerless deer, (including those taken with bow, muzzleloader and those antlerless deer taken on either-sex days) in a manner that it cannot be removed, before the deer is moved from the site of the kill.

11. Sex Identification. Positive evidence of sex identification, including the head, shall remain on any deer

taken or killed within the state of Louisiana, or on all turkeys taken or killed during any special gobbler season when killing of turkey hens is prohibited, so long as such deer or turkey is kept in camp or field, or is in route to the domicile of its possessor, or until such deer or turkey has been stored at the domicile of its possessor or divided at a cold storage facility and has become identifiable as food rather than as wild game.

#### 12. Promotional Hunting Days

a. The following dates are established as promotional hunting days—the first three days after Thanksgiving Day.

b. Persons availing themselves of promotional hunting days shall be entitled to hunt resident game birds and game quadrupeds (excluding bears), as well as coyotes, bobcats and feral hogs on designated days without the payment of fees and without obtaining any license other than the below referenced letter of permit. Persons wishing to avail themselves of promotional hunting days shall be subject to the following requirements and restrictions.

i. All applicants must be at least 16 years of age, and not currently under a suspension or revocation of hunting privileges.

ii. All applicants must submit, on a form and in a manner prescribed by the department, such personal information as may be required by the department including, but not limited to, name, address, date of birth, drivers' license number, and social security number.

iii. No person shall be entitled to apply for or receive more than one letter of permit for promotional hunting days in his or her lifetime.

iv. Any eligible person who applies for the promotional hunting days shall receive a letter of permit from the secretary.

v. Any person hunting under the promotional hunting days letter of permit must be accompanied by a validly licensed hunter.

vi. Any person hunting under the promotional hunting days letter of permit shall meet all other legal requirements for obtaining a hunting license, including but not limited to, successful completion of a hunter education course.

vii. Any person hunting under the promotional hunting days letter of permit must have in his possession while hunting, a valid hunter education card or certificate.

viii. Any person hunting under the promotional hunting days letter of permit may hunt during all legal hunting hours on the dates recited in the permit, but only during legal hunting hours.

ix. Any person hunting under a letter of permit shall be subject to all of the limitations, restrictions, conditions, laws, and rules and regulations applicable to the holder of a hunting license.

x. Any person hunting under the promotional hunting days letter of permit may hunt any species of resident game birds or game quadrupeds (excluding bears), as well as coyotes, bobcats and feral hogs for which the season is open at the time of the above stated weekends, but only those species for which the season is open at the time of the above stated weekends.

xi. Any person hunting under the promotional hunting days letter of permit may use any gear or method of take which is legal on the above designated weekends.

xii. Any person hunting under the promotional hunting days letter of permit may hunt only resident game birds and game quadrupeds (excluding bears), as well as coyotes, bobcats and feral hogs. All other species are excluded including, but not limited to, migratory game birds.

#### E. General Deer Hunting Regulations

1. Prior to hunting deer, all deer hunters, regardless of age or license status, must obtain deer tags and have in possession when hunting deer. Immediately upon harvesting a deer, the hunter must tag the deer with the appropriate carcass tag and document the kill on the deer tag license. Within 72 hours the hunter must validate the kill and record the validation number on the license. Hunters harvesting deer on DMAP and LADT lands can validate deer per instructions by LDWF using the DMAP and LADT harvest data sheets. Hunters on wildlife management areas can validate deer during mandatory deer check hunts, when deer check stations are in operation. Hunters may validate deer by calling the validation toll free number or using the validation web site.

2. One antlered and one antlerless deer per day (when legal) except on National Forest Lands and some Federal Refuges (check refuge regulations) where the daily limit shall be one deer per day. Season limit is six, three antlered bucks and three antlerless deer (all segments included) by all methods of take, except antlerless harvest on property enrolled in DMAP and LADT does not count in the season bag limit for hunters. Antlerless deer may be harvested during entire deer season on private lands (all segments included) except in the following parishes: West Carroll and portions of East Carroll. Consult regulations pamphlet, modern firearms table for either-sex days for these parishes. This does not apply to public lands (wildlife management areas, National Forest Lands, and Federal Refuges) which will have specified either-sex days.

3. A legal buck is a deer with visible antler of hardened bony material, broken naturally through the skin. Killing bucks without at least one visible antler as described above and killing does is prohibited except where specifically allowed and except in Thistlethwaite Wildlife Management Area where a legal buck shall be defined as deer with at least 4 points on one side or a deer with unbranched antlers commonly referred to as spikes (no minimum length). To be counted as a point, a projection must be at least 1 inch long and its length must exceed the length of its base. The beam tip is counted as a point but not measured as a point.

4. Deer hunting restricted to legal bucks only, except where otherwise allowed.

5. Either-sex deer is defined as male or female deer. Taking or possessing spotted fawns is prohibited.

6. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with anything other than buckshot or rifled slug. Handguns may be used for hunting.

7. Taking game quadrupeds or birds from aircraft, participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

8. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs or moving vehicles, including ATVs, when or where a still hunting season or area is designated, is prohibited and will be strictly enforced. The training of deer dogs is prohibited in all still hunting areas during the gun still hunting and archery only season. Deer hunting with dogs is allowed in all other areas having open deer seasons that are not specifically designated as still hunting only. Except in wildlife management areas, a leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address, and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

9. It is unlawful to take deer while deer are swimming or while the hunter is in a boat with motor attached in operating position; however the restriction in this paragraph shall not apply to any person who has lost one or more limbs.

10. Areas not specifically designated as open are closed.

11. Muzzleloader Segment. (Special license and muzzleloader firearms specifications apply only to the special state, WMA, National Forest and Preserves, and Federal Refuge seasons.)—still hunt only. Specific WMAs will also be open, check WMA schedule for specific details. Muzzleloader license required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all deer hunting areas except Area 5 and as specified on Public Areas. It is unlawful to carry a gun, other than a muzzleloader, including those powered by air or other means, while hunting during the special muzzleloader segment. Except, it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot) only).

a. Legal Muzzleloader Firearms for Special Season—rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, use black powder or approved substitute only, take ball or bullet projectile only, including sabot bullets and may be fitted with magnified scopes. This includes muzzleloaders known as "inline" muzzleloaders.

12. Archery Segment—consult regulations pamphlet. WMA seasons are the same as outside except as noted below. Archery license required for resident bow hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Residents 60 years of age and older may use a crossbow without a special permit or license. Either-sex deer may be taken in all areas open for deer hunting except when a bucks only season is in progress for gun hunting, and except in Area 6 from October 1-15. Archer's must conform to the bucks only regulations. Either-sex deer may be taken on WMAs at anytime during archery season except when bucks only seasons are in progress on the respective WMA. Also, archery season restricted on Atchafalaya Delta, Salvador, Lake Boeuf, and Pointe-aux-Chenes WMAs (see schedule).

a. Bow and arrow regulations—hunting arrows for deer must have well-sharpened metal broadhead blades not less than 7/8 inch in width. Bow and arrow fishermen must have a sport fishing license and not carry any arrows with broadhead points unless a big game season is in progress.

i. It is unlawful:

(a). to carry a gun, including those powered by air or other means, while hunting with bow and arrow during the special bow and arrow deer season except it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot) only;

(b). to have in possession or use any poisoned or drugged arrow, arrows with explosive tips, or any bow drawn, held or released by mechanical means except that hand held releases are lawful and except disabled persons with a crossbow permit and individuals who are 60 years of age or older may use a bow drawn, held or released by mechanical means;

(c). to hunt deer with a bow having a pull less than 30 pounds;

(d). to hunt with a bow or crossbow fitted with an infrared or laser sight.

13. Hunter Orange—any person hunting deer shall display on his head, chest and/or back a total of not less than 400 square inches of "hunter orange" during the open deer gun season including muzzleloader season. Persons hunting on privately owned, legally posted land may wear a hunter orange cap or hat in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned and legally posted or to archery deer hunters hunting on legally posted lands where firearm hunting is not allowed by agreement of the landowner or lessee. However, anyone hunting deer on such lands where hunting with firearms is allowed shall be required to display the 400 square inches or a hunter orange cap or hat while walking to and from elevated stands. While a person is hunting from an elevated stand, the 400 square inches or cap or hat may be concealed. Warning: deer hunters are cautioned to watch for persons hunting other game or engaged in activities not requiring "hunter orange".

14. Special handicapped either-sex deer season on private land—first Saturday of October for 2 days. Restricted to individuals with Physically Challenged Hunter Permit.

15. Special Youth Deer Hunt on Private Lands (Either-Sex)—areas 1, 4, 5 and 6 - last Saturday of October for 2 days; Area 2 - 2nd Saturday of October for 2 days; and Areas 3, 7 and 8 - 4th Saturday of September for 2 days. Youths under the age of 16 only. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt.

16. Special Youth Deer Shotgun Season on Private Land (either-sex): Youths under the age of 16 may hunt deer with 20 gauge shotguns using slugs only during the Muzzleloader Season in each deer hunting area.

F. Description of Areas

1. Area 1

a. All of the following parishes are open: Concordia, East Baton Rouge, East Feliciana, Franklin, Madison, St. Helena, Tensas, Washington.

b. Portions of the following parishes are also open:

i. Catahoula—East of Boeuf River to Ouachita River, east of Ouachita River from its confluence with Boeuf River to La. Hwy. 8, south and east of La. Hwy. 8 southwesterly to parish line.

ii. East Carroll—beginning September 2008, East of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison Parish line.

iii. Grant—East of U.S. 165 and south of La. 8.

iv. LaSalle—South of a line beginning where Little River enters Catahoula Lake following the center of the lake eastward to Old River then to U.S. Highway 84, east of U.S. Highway 84 northward to La. Highway 8, south of La. Highway 8 eastward to parish line.

v. Livingston—North of I-12.

vi. Rapides—East of U.S. 165 and north of Red River.

vii. St. Tammany—all except that portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

viii. Tangipahoa—North of I-12.

ix. West Feliciana—all except that portion known as Raccourci and Turnbull Island.

c. Still hunting only in all or portions of the following parishes:

i. Catahoula—South of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to La. 8 at Harrisonburg, west of La. 8 to La. 913, west of La. 913 and La. 15 to Deer Creek.

ii. East Carroll—beginning September 2008, East of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison Parish line.

iii. East Feliciana and East Baton Rouge—East of Thompson Creek from the Mississippi state line to La. 10, north of La. 10 from Thompson Creek to La. 67 at Clinton, west of La. 67 from Clinton to Mississippi state line, south of Mississippi state line from La. 67 to Thompson Creek. Also that portion of East Baton Rouge Parish east of La. 67 from La. 64 north to Parish Line, south of Parish Line from La. 64 eastward to Amite River, west of Amite River southward to La. 64, north of La. 64 to La. 37 at Magnolia, east of La. 37 northward to La. 64 at Indian Mound, north of La. 64 from Indian Mound to La. 67. Also, that portion of East Feliciana Parish east of La. 67 from parish line north to La. 959, south of La. 959 east to La. 63, west of La. 63 to Amite River, west of Amite River southward to parish line, north of parish line westward to La. 67.

iv. Franklin—all.

v. St. Helena—North of La. 16 from Tickfaw River at Montpelier westward to La. 449, east and south of

La. 449 from La. 16 at Pine Grove northward to La. 1045, south of La. 1045 from its junction with La. 449 eastward to the Tickfaw River, west of the Tickfaw River from La. 1045 southward to La. 16 at Montpelier.

vi. Tangipahoa—that portion of Tangipahoa Parish north of La. 10 from the Tchefuncte River to La. 1061 at Wilmer, east of La. 1061 to La. 440 at Bolivar, south of La. 440 to the Tchefuncte River, west of the Tchefuncte River from La. 440 southward to La. 10.

vii. Washington and St. Tammany—East of La. 21 from the Mississippi state line southward to the Bogue Chitto River, north of the Bogue Chitto River from La. 21 eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi state line, south of the Mississippi state line from the Pearl River westward to La. 21. Also, that portion of Washington Parish west of La. 25 from the Mississippi state line southward to the Bogue Chitto River, then west of the Bogue Chitto River to its junction with the St. Tammany Parish line, north of the St. Tammany Parish line to the Tangipahoa Parish line, east of the Tangipahoa Parish line to the Mississippi state line, south of the Mississippi state line to its junction with La. 25.

viii. West Feliciana—West of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of U.S. 61 and La. 966, east of La. 966 from U.S. 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

2. Area 2

a. All of the following parishes are open:

i. Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Jackson, Lincoln, Natchitoches, Red River, Sabine, Union, Webster, Winn;

ii. except: Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as Area 2, EXCEPT still hunting only for deer and except National Forest Land within the Evangeline Unit, Calcasieu Ranger District described in Area 2 description shall be still hunting only.

b. Portions of the following parishes are also open:

i. Allen—North of U.S. 190 from parish line westward to Kinder, east of U.S. 165 from Kinder northward to La. 10 at Oakdale, north of La. 10 from Oakdale westward to the parish line.

ii. Avoyelles—that portion west of I-49.

iii. Catahoula—West of Boeuf River to Ouachita River, west of Ouachita River from its confluence with Boeuf River to La. Highway 8, north and west of La. Highway 8 southwesterly to parish line.

iv. Evangeline—all except the following portions: east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte, and north of U.S. 167 east of Ville Platte.

v. Grant—all except that portion south of La. 8 and east of U.S. 165.

vi. Jefferson Davis—North of U.S. 190.

vii. LaSalle—North of a line beginning where Little River enters Catahoula Lake, following the center of the lake eastward to Old River then to U.S. Highway 84,

west of U.S. Highway 84 northward to La. Highway 8, north of La. Highway 8 eastward to parish line.

viii. Morehouse—West of U.S. 165 (from Arkansas state line) to Bonita, north and west of La. 140 to junction of La. 830-4 (Cooper Lake Road), west of La. 830-4 to Bastrop, west of La. 139 to junction of La. 593, west and south of La. 593 to Collinston, west of La. 138 to junction of La. 134 and north of La. 134 to Ouachita Parish line at Wham Brake.

ix. Ouachita—all except south of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse Parish line at Wham Brake.

x. Rapides—all except north of Red River and east of U.S. 165, south of La. 465 to junction of La. 121, west of La. 121 and La. 112 to Union Hill, and north of La. 113 from Union Hill to Vernon Parish line, and that portion south of Alexandria between Red River and U.S. 167 to junction of U.S. 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line.

xi. Vernon—North of La. Highway 10 from the parish line westward to La. 113, south of La. 113 eastward to parish line. Also the portion north of La. 465 west of La. 117 from Kurthwood to Leesville and north of La. 8 from Leesville to Texas state line.

c. Still hunting only in all or portions of the following parishes:

i. Claiborne and Webster—Caney, Corney and Middlefork tracts of Kisatchie National Forest. (See Kisatchie National Forest Regulations).

ii. Ouachita—East of Ouachita River.

iii. Rapides—West of U.S. 167 from Alexandria southward to I-49 at Turkey Creek Exit, west of I-49 southward to Parish Line, north of Parish Line westward to U.S. 165, east of U.S. 165 northward to U.S. 167 at Alexandria. North of La. 465 from Vernon Parish line to La. 121, west of La. 121 to I-49, west of I-49 to La. 8, south and east of La. 8 to La. 118 (Mora Road), south and west of La. 118 to Natchitoches Parish line.

iv. Vernon—East of Mora-Hutton Road from Natchitoches Parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to La. 465, east and north of La. 465 to Rapides Parish line.

### 3. Area 3

a. All of Acadia, Cameron and Vermilion Parishes are open.

b. Portions of the following parishes are also open:

i. Allen—South of U.S. 190 and west of La. 113.

ii. Beauregard—West of La. 113 and east of La. 27 from the parish line northward to DeRidder and north of U.S. 190 westward from DeRidder to Texas state line.

iii. Calcasieu—South of U.S. 90 from Sulphur to Texas state line. Also east of La. 27 from Sulphur northward to the parish line.

iv. Iberia—West of U.S. 90 and north of La. 14.

v. Jefferson Davis—all EXCEPT north of U.S. 190.

vi. Lafayette—West of I-49 and U.S. 90.

vii. Rapides—South of La. 465 to junction of La. 121, west of La. 121 and La. 112 to Union Hill and north of La. 113 from Union Hill to Vernon Parish line.

viii. St. Landry—West of U.S. 167.

ix. Vernon—West and north of La. 113, south of La. 465, east of La. 117 from Kurthwood to Leesville, and south of La. 8 from Leesville to Texas state line.

### 4. Area 4

a. All of Richland parish is open.

b. Portions of the following parishes are open:

i. East Carroll—all of East Carroll Parish is open for the 2007-2008 season. Beginning with the 2008-2009 season, that portion of East Carroll Parish east of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison Parish line will move to Area 1. The remainder of the parish will remain in Area 4.

ii. Morehouse—East of U.S. 165 (from Arkansas state line) to Bonita, south and east of La. 140 to junction of La. 830-4 (Cooper Lake Road), east of La. 830-4 to Bastrop, east of La. 139 at Bastrop to junction of La. 593, east and north of La. 593 to Collinston, east of La. 138 to junction of La. 134 and south of La. 134 to Ouachita line at Wham Brake.

iii. Ouachita—South of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse line at Wham Bake.

### 5. Area 5

a. All of West Carroll Parish is open.

### 6. Area 6

a. All of the following parishes are open: Ascension, Assumption, Iberville, Jefferson, Lafourche, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. James, St. John, St. Martin, Terrebonne, West Baton Rouge.

b. Portions of the following parishes are also open:

i. Avoyelles—all except that portion west of I-49.

ii. Evangeline—that portion east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte and north of U.S. 167 east of Ville Platte.

iii. Iberia—East of U.S. 90.

iv. Lafayette—East of I-49 and U.S. 90.

v. Livingston—South of I-12.

vi. Rapides—South of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

vii. St. Landry—East of U.S. 167.

viii. St. Mary—North of U.S. 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde.

ix. St. Tammany—that portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

x. Tangipahoa—South of I-12.

xi. West Feliciana—West of Mississippi River, known as Raccourci and Turnbull Islands.

c. Still hunting only in all or portions of the following parishes:

i. Avoyelles—North of La. 1 from Simmesport westward to La. 115 at Marksville, east of La. 115 from

Marksville northward to the Red River near Moncla, south and west of the Red River to La. 1 at Simmesport.

ii. Plaquemines—East of the Mississippi River.  
iii. Rapides—South of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

iv. St. Bernard—all of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre.

v. St. John—South of Pass Manchac from Lake Pontchartrain to U.S. 51, east of U.S. 51 from Pass Manchac to La. 638 (Frenier Beach Road). North of La. 638 from U.S. 51 to Lake Pontchartrain, west of Lake Pontchartrain from La. 638 to Pass Manchac.

vi. St. Landry—those lands surrounding Thistlethwaite WMA bounded north and east by La. 359, west by La. 10, and south by La. 103.

vii. High Water Benchmark Closure—Deer hunting in those portions of Iberia, Iberville, St. Martin, and St. Mary parishes south of Interstate 10, west of the East Guide Levee, east of the West Guide Levee, and north of U.S. Highway 90 will be closed when the river stage of the Atchafalaya River reaches 18 feet at Butte LaRose.

#### 7. Area 7

a. Portions of the following parishes are open:

i. Iberia—South of La. 14 and west of U.S. Hwy. 90.

ii. St. Mary—all except that portion north of U.S. 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde.

#### 8. Area 8

a. Portions of the following parishes are open:

i. Allen—that portion east of La. 113 from the parish line to U.S. 190, north of U.S. 190 eastward to Kinder, west of U.S. 165 northward to La. 10 at Oakdale and south of La. 10 from Oakdale westward to parish line.

ii. Beauregard—that portion east of La. 113. Also that portion west of La. 27 from parish line northward to DeRidder, south of U.S. 190 from DeRidder to Texas state line.

iii. Calcasieu—that portion east of La. 27 from the parish line southward to Sulphur and north of U.S. 90 from Sulphur to the Texas state line.

iv. Vernon—that portion east of La. 113 from the parish line northward to Pitkin and south of La. 10 from Pitkin southward to the parish line.

### G. Wildlife Management Area Regulations

#### 1. General

a. The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.

b. Citizens are cautioned that by entering a WMA managed by the LDWF they may be subjecting themselves and/or their vehicles to game and/or license checks, inspections and searches.

c. Wildlife management area seasons may be altered or closed anytime by the Department Secretary in emergency situations (floods, fire or other critical circumstances).

d. Hunters may enter the WMA no earlier than 4 a.m. unless otherwise specified. On days when daily permits are required, permit stations will open two hours before legal shooting hours. Hunters must check out and exit the WMA no later than two hours after sunset, or as otherwise specified.

e. Lands within WMA boundaries will have the same seasons and regulations pertaining to baiting and use of dogs as the WMA within which the lands are enclosed; however, with respect to private lands enclosed within a WMA, the owner or lessee may elect to hunt according to the regular season dates and hunting regulations applicable to the geographic area in which the lands are located, provided that the lands are first enrolled in DMAP or LADT. Interested parties should contact the nearest LDWF regional office for additional information.

f. Dumping garbage or trash on WMAs is prohibited. Garbage and trash may be properly disposed of in designated locations if provided.

g. Disorderly conduct or hunting under influence of alcoholic beverages, chemicals and other similar substances is prohibited.

h. Damage to or removal of trees, shrubs, hard mast (acorn, pecans, etc.), wild plants and non-game wildlife (including reptiles and amphibians) is prohibited without prior approval from the Baton Rouge Office. Gathering and/or removal of soft fruits, mushrooms and berries shall be limited to five gallons per person per day.

i. Burning of marshes is prohibited. Hunting actively burning marsh prohibited.

j. Nature trails. Trails shall be limited to pedestrians only. No vehicles, ATVs, horses, mules, bicycles, etc. allowed. Removal of vegetation (standing or down) or other natural material prohibited.

k. Deer seasons are for legal buck deer unless otherwise specified.

l. Small game, when listed under the WMA regulations may include both resident game animals and game birds as well as migratory species of birds.

m. Oysters may not be harvested from any WMA, except that oysters may be harvested from private oyster leases and State Seed Grounds located within a WMA, when authorized by the Wildlife and Fisheries Commission and upon approval by the Department of Health and Hospitals.

n. Free ranging livestock prohibited.

#### 2. Permits

a. A WMA Hunting Permit is required for persons aged 18 through 59 to hunt on WMAs.

b. Daily. Daily permits when required shall be obtained at permit stations on or near each WMA after first presenting a valid hunting license to a department employee. Hunters must retain permit in possession while hunting. Hunters may enter the area no earlier than two hours before legal shooting time unless otherwise specified. Hunters must

checkout daily and exit the area not later than two hours after sunset unless otherwise specified.

c. **Self-Clearing Permits.** A Self-Clearing Permit is required for all activities (hunting, fishing, hiking, birdwatching, sightseeing, etc.) on WMAs unless otherwise specified. The Self-Clearing Permit will consist of three portions: Check In, Check Out and a Vehicle Tag. On WMAs where Self-Clearing Permits are required, all persons must obtain a WMA Self-Clearing Permit from an Information Station. The Check In portion must be completed and put in a permit box before each day's activity on the day of the activity (except if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA, users need only to check in once during any 72 hour period). Users may check-in one day in advance of use. The Check Out portion must be carried by each person while on the WMA and must be completed and put in a permit box immediately upon exiting the WMA or within 72 hours after checking in if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA. Each person must leave the Vehicle Tag portion of his permit on the dashboard of the vehicle used to enter into the WMA in such a way that it can be easily read from outside of the vehicle. This must be done only when the vehicle is parked and left unattended on the WMA. If an ATV, boat or other type vehicle was used to enter the WMA, then the vehicle tag must be attached to that vehicle in such a manner that it can be readily seen and read. No permit is required of fishers and boaters who do not travel on a WMA road and/or launch on the WMA as long as they do not get out of the boat and onto the WMA. When Mandatory Deer Checks are specified on WMAs, hunters must check deer at a check station. Call the appropriate Region office for the location of the deer check station on these WMAs. (Self-Clearing Permits are not required for persons only traveling through the WMA provided that the most direct route is taken and no activities or stops take place.)

d. Persons using WMAs or other department administered lands for any purpose must possess one of the following: a valid Wild Louisiana stamp, a valid Louisiana fishing license, or a valid Louisiana hunting license. Persons younger than 16 or older than 60 years of age are exempt from this requirement. Also a Self-Clearing WMA permit, detailed above, may be required (available at most entrances to each WMA). Check individual WMA listings for exceptions.

### 3. Special Seasons

a. **Youth Deer Hunt.** Only youths younger than 16 years of age may hunt. All other seasons are closed except Handicapped Seasons. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of a hunter safety certification, a valid Louisiana hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt. Contact the appropriate region office for

special check station locations when daily permits are required and maps of specific hunting areas. Either-sex deer may be taken on WMAs with youth hunts. Consult the regulations pamphlet for WMAs offering youth hunts. Note: some hunts may be by pre-application lottery.

b. **Youth Squirrel Hunt (on selected WMAs only).** Only youths younger than 16 years of age may hunt. Squirrel, rabbit, raccoon and opossum may be taken. Hogs may not be taken. No dogs allowed. All other seasons will remain open to other hunters. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. Self-clearing permits are required. Consult the regulations pamphlet for WMAs offering youth squirrel hunts.

c. **Youth Mourning Dove Hunt.** A youth mourning dove hunt will be conducted on specific WMAs and will follow the same regulations provided for youth deer hunts on the second weekend of the mourning dove season (Saturday and Sunday only). Consult the regulations pamphlet for WMAs offering youth mourning dove hunts.

d. **Handicapped Season.** An either-sex deer season will be held for hunters possessing a Physically Challenged Hunter Permit on WMAs during the dates specified under the individual WMA. Participants must possess a Physically Challenged Hunter Permit. Contact region office for permit application and map of specific hunting area. Consult the regulations pamphlet for WMAs offering Handicapped Seasons. Pointe-aux-Chenes will have an experimental Lottery Handicapped waterfowl hunt. Contact New Iberia Office, Fur and Refuge Division for details.

e. **Turkey Lottery Hunts.** Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadlines. All turkeys must be reported at self-clearing station. Contact Region Offices for more details. Consult separate turkey hunting regulations pamphlet for more details.

f. **Waterfowl Lottery Hunts.** Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadline. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

g. **Mourning Dove Lottery Hunts.** Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

h. **Trapping.** Consult Annual Trapping Regulations for specific dates. All traps must be run daily. Traps with teeth are illegal. Hunter orange required when a deer gun season is in progress. A permit is required to carry a firearm outside of the normal hunting season and is available at the Region Office.

i. **Raccoon Hunting.** A licensed hunter may take raccoon or opossum, one per person per day, during daylight hours only, during the open rabbit season on WMAs. Nighttime Experimental—all nighttime raccoon hunting where allowed is with dogs only. There is no bag limit.



Raccoon hunters with dogs must submit an annual report of their kill to the region office for WMAs where permits are required. Non-compliance will result in forfeiture of raccoon or all hunting privileges on WMAs. Permits, when required, may be obtained at region offices only between hours of 8 a.m. to 4:30 p.m. on normal working days.

j. Sport Fishing. Sport fishing, crawfishing and frogging are allowed on WMAs when in compliance with current laws and regulations except as otherwise specified under individual WMA listings.

k. Additional Department Lands. The department manages additional lands that are included in the WMA system and available for public recreation. Small tracts are located in Vernon, Evangeline, St. Helena and other parishes. These small tracts have been acquired from the Farmers Home Administration or other sources for conservation purposes. Contact the appropriate Wildlife and Fisheries Region Office for specific information and any additional season dates.

#### 4. Firearms

a. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms are not allowed in or on vehicles, boats under power, motorcycles, ATVs, ATCs or in camping areas on WMAs. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas and except as may be permitted for authorized trappers.

b. Firearms and bows and arrows are not allowed on WMAs during closed seasons except on designated shooting ranges or as permitted for trapping. Bows and broadhead arrows are not allowed on WMAs except during deer archery season, turkey season or as permitted for bowfishing.

c. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists except as specified under Wildlife Management Area listing.

d. Loaded firearms are not allowed near WMA check stations.

e. Centerfire rifles and handguns larger than .22 caliber rimfire, shotgun slugs or shot larger than BB lead or F steel shot cannot be carried onto any WMA except during modern firearm deer season.

f. Target shooting and other forms of practice shooting are prohibited on WMAs except as otherwise specified.

g. Discharging of firearms on or hunting from designated roads, ATV trails and their rights-of-way is prohibited during the modern firearm and muzzleloader deer season.

#### 5. Methods of Taking Game

a. Moving deer or hogs on a WMA with organized drivers and standers, drivers or making use of noises or noise-making devices is prohibited.

b. On Wildlife Management Areas the daily limit shall be one antlered deer and one antlerless deer (when legal) per day. Three antlered and three antlerless per season (all segments included) by all methods of take.

c. Baiting or hunting over bait is prohibited on all WMAs (hogs included).

d. Hunters who kill deer on WMAs that require daily permits must have deer checked at the check station on

same day of kill. Deer may not be skinned or have any external body parts removed including but not limited to feet, legs, tail, head or ears before being checked out.

e. Deer hunting on WMAs is restricted to still hunting only. No WMA will be open for deer during early still hunt season unless specified in the regulation pamphlet.

f. Construction of and/or hunting from permanent tree stands or permanent blinds on WMAs is prohibited. Any permanent stand or permanent blind will be removed and destroyed. A permanent blind is any blind using non-natural materials or having a frame which is not dismantled within two hours after the end of legal shooting time each day. Blinds with frames of wood, plastic, metal poles, wire, mesh, webbing or other materials may be used but must be removed from the WMA within two hours after the end of legal shooting time each day. Blinds made solely of natural vegetation and not held together by nails or other metallic fasteners may be left in place but cannot be used to reserve hunting locations. All decoys must be removed from the WMA daily. Permanent tree stands are any stands that use nails, screws, spikes, etc., to attach to trees and are strictly prohibited. Portable deer stands (those that are designed to be routinely carried by one person) may not be left on WMAs unless the stands are removed from trees and left in a non-hunting position (a non-hunting position is one in which a hunter could not hunt from the stand in its present position). Also, all stands left must be legibly tagged with the user's name, address, phone number and Big Game Hunting License number (or Lifetime License Number). No stand may be left on any WMA prior to the day before deer season opens on that WMA and all stands must be removed from the WMA within one day after the close of deer hunting on that WMA. Free standing blinds must be disassembled when not in use. Stands left will not reserve hunting sites for the owner or user. All portable stands, blinds, tripods, etc. found unattended in a hunting position or untagged will be confiscated and disposed of by the Department of Wildlife and Fisheries. LDWF not responsible for unattended stands left on an area.

g. Hunting from utility poles, high tension power lines, oil and gas exploration facilities or platforms is prohibited.

h. It is illegal to save or reserve hunting locations using permanent stands or blinds. Stands or blinds attached to trees with screws, nails, spikes, etc. are illegal.

i. Tree climbing spurs, spikes or screw-in steps are prohibited.

j. Unattended decoys will be confiscated and forfeited to the Department of Wildlife and Fisheries and disposed of by the department. This action is necessary to prevent preemption of hunting space.

k. Spot lighting (shining) from vehicles is prohibited on all WMAs.

l. Horses and mules may be ridden on Wildlife Management Areas except where prohibited and except during gun seasons for deer and turkey. Riding is restricted to designated roads and trails. Hunting and trapping from horses and mules is prohibited except for quail hunting or as otherwise specified.

m. All hunters (including archers and small game hunters) except waterfowl hunters and mourning dove hunters on WMAs must display 400 square inches of

"Hunter Orange" and wear a "Hunter Orange" cap during open gun season for deer. Hunters participating in special dog seasons for rabbit and squirrel are required to wear a minimum of a "Hunter Orange" cap. All other hunters and archers (while on the ground) except waterfowl hunters also must wear a minimum of a "Hunter Orange" cap during special dog seasons for rabbit and squirrel. Also all persons afield during hunting seasons are encouraged to display "Hunter Orange".

n. Deer hunters hunting from concealed ground blinds must display a minimum of 400 square inches of "Hunter Orange" above or around their blinds which is visible from 360 feet.

o. Archery season for deer. The archery season on WMAs is the same as outside and is open for either-sex deer except as otherwise specified on individual WMAs. Archery season restricted on Atchafalaya Delta and closed on certain WMAs when special seasons for youth or handicapped hunts are in progress. Consult regulations pamphlet for specific seasons.

p. Either-sex deer may be taken on WMAs at any time during archery season except when bucks only seasons are in progress on the respective WMAs. Archers must abide by bucks only regulations and other restrictions when such seasons are in progress.

q. Muzzleloader season for deer. Either-sex unless otherwise specified. See WMA deer schedule.

#### 6. Camping

a. Camping on WMAs, including trailers, houseboats, recreational vehicles and tents, is allowed only in designated areas and for a period not to exceed 16 consecutive days, regardless if the camp is attended or unattended. Houseboats shall not impede navigation. At the end of the 16 day period, camps must be removed from the area for at least 48 hours. Camping area use limited exclusively to outdoor recreational activities.

b. Houseboats are prohibited from overnight mooring within WMAs except on stream banks adjacent to department-owned designated camping areas. Overnight mooring of vessels that provide lodging for hire are prohibited on WMAs. On Atchafalaya Delta WMA and Pass-a-Loutre, houseboats may be moored in specially designated areas throughout the hunting season. At all other times of the year, mooring is limited to a period not to exceed 16 consecutive days. Permits are required for the mooring of houseboats on Pass-a-Loutre and Atchafalaya Delta WMAs. Permits must be obtained from the New Iberia office.

c. Discharge of human waste onto lands or waters of any WMA is strictly prohibited by State and Federal law. In the event public restroom facilities are not available at a WMA, the following is required. Anyone camping on a WMA in a camper, trailer, or other unit (other than a houseboat or tent) shall have and shall utilize an operational disposal system attached to the unit. Tent campers shall have and shall utilize portable waste disposal units and shall remove all human waste from the WMA upon leaving. Houseboats moored on a WMA shall have a permit or letter of certification from the Health Unit (Department of Health and Hospitals) of the parish within which the WMA occurs verifying that it has an approved sewerage disposal system

on board. Further, that system shall be utilized by occupants of the houseboats when on the WMA.

d. No refuse or garbage may be dumped from these boats.

e. Firearms may not be kept loaded or discharged in a camping area.

f. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations when provided or carried off by campers.

g. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation, including restitution for damages.

h. Swimming is prohibited within 100 yards of boat launching ramps.

#### 7. Restricted Areas

a. For your safety, ALL oil and gas production facilities (wells, pumping stations and storage facilities) are off limits.

b. No unauthorized entry or unauthorized hunting in restricted areas or refuges.

8. Dogs. All use of dogs on WMAs, except for bird hunting and duck hunting, is experimental as required by law. Having or using dogs on any WMA is prohibited except for nighttime experimental raccoon hunting, squirrel hunting, rabbit hunting, bird hunting, duck hunting, hog hunting and bird dog training when allowed; see individual WMA season listings for WMAs that allow dogs. Dogs running at large are prohibited on WMAs. The owner or handler of said dogs shall be liable. Only recognizable breeds of bird dogs and retrievers are allowed for quail and migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on WMAs having experimental rabbit seasons.

#### 9. Vehicles

a. An all-terrain vehicle is an off-road vehicle (not legal for highway use) with factory specifications not to exceed the following: weight-750 pounds, length-85", and width-48". ATV tires are restricted to those no larger than 25 x 12 with a maximum 1" lug height and a maximum allowable tire pressure of 7 psi. as indicated on the tire by the manufacturer. Use of all other ATVs or ATV tires are prohibited on a WMA.

b. Vehicles having wheels with a wheel-tire combination having a radius of 17 inches or more from the center of the hub (measured horizontal to ground) are prohibited.

c. The testing, racing, speeding or unusual maneuvering of any type of vehicle is prohibited within wildlife management areas due to property damages resulting in high maintenance costs, disturbance of wildlife and destruction of forest reproduction.

d. Tractor or implement tires with farm tread designs R1, R2 and R4 known commonly as spade or lug grip types are prohibited on all vehicles.

e. Airboats, aircraft, personal water craft "mud crawling vessels" (commonly referred to as crawfish combines which use paddle wheels for locomotion) and hover craft are prohibited on all WMAs and Refuges. Personal water craft are defined as a vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and is designed to be operated by a

person sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. Personal water craft allowed on designated areas of Alexander State Forest WMA.

f. Driving or parking vehicles on food or cover plots and strips is prohibited.

g. Blocking the entrance to roads and trails is prohibited.

h. Licensed motorized vehicles (LMVs) legal for highway use, including motorcycles, are restricted entirely to designated roads as indicated on WMA maps. ATVs are restricted to marked ATV trails only, except when WMA roads are closed to LMVs. ATVs may then use those roads until they are reopened for LMV traffic. WMA maps available at all region offices. This restriction does not apply to bicycles. Note: All ATV trails are marked with signs and/or paint, but not all ATV trails appear on WMA maps.

i. Use of special ATV trails for handicapped persons is restricted to special ATV handicapped permittees. Handicapped ATV permittees are restricted to handicapped ATV trails or other ATV trails only as indicated on WMA maps or as marked by sign and/or paint. Persons 60 years of age and older, with proof of age, are also allowed to use special handicapped trails and need not obtain a permit. However, these persons must abide by all rules in place for these trails. Handicapped persons under the age of 60 must apply for and obtain a Physically Challenged Hunter Program Permit from the department.

j. Entrances to ATV trails will be marked with peach colored paint. Entrances to handicapped-only ATV trails will be marked with blue colored paint. Entrances to ATV trails that are open all year long will be marked with purple paint. The end of all ATV trails will be marked by red paint. WMA maps serve only as a general guide to the route of most ATV trails, therefore all signage and paint marking as previously described will be used to determine compliance. Deviation from this will constitute a violation of WMA rules and regulations.

k. Roads and trails may be closed due to poor condition, construction or wet weather.

l. ATVs, and motorcycles cannot be left overnight on WMAs except on designated camping areas. ATVs are prohibited from two hours after sunset to 4 am, except raccoon hunters may use ATVs during nighttime raccoon take seasons only. ATVs are prohibited from March 1 through August 31 except ATV trails are open on WMAs with a Spring Squirrel Season and except certain trails may be open during this time period to provide access for fishing or other purposes and some ATV trails will be open all year long on certain WMAs.

m. Caution: Many department-maintained roadways on WMAs are unimproved and substandard. A maximum 20 mph speed limit is recommended for all land vehicles using these roads.

n. Hunters are allowed to retrieve their own downed deer and hogs with the aid of an ATV except on Thistlethwaite and Sherburne WMAs under the following conditions.

i. No firearms or archery equipment is in possession of the retrieval party or on the ATV.

ii. The retrieval party may consist of no more than one ATV and one helper.

iii. ATVs may not be used to locate or search for wounded game or for any other purpose than retrieval of deer and hogs once they have been legally harvested and located.

#### 10. Commercial Activities.

a. Hunting Guides/Outfitters. No person or group may act as a hunting guide, outfitter or in any other capacity for which they are paid or promised to be paid directly or indirectly by any other individual or individuals for services rendered to any other person or persons hunting on any Wildlife Management Area, regardless of whether such payment is for guiding, outfitting, lodging or club memberships.

b. Commercial activities prohibited without prior approval from Baton Rouge office or unless otherwise specified.

c. Commercial fishing. Permits are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou WMAs. Drag seines (except minnow and bait seines) are prohibited except experimental bait seines allowed on Dewey Wills WMA north of La. 28 in Diversion Canal. Commercial fishing is prohibited during regular waterfowl seasons on Grand Bay, Silver Lake and Lower Sunk Lake on Three Rivers WMA. Commercial fishing is prohibited on Salvador/Timken, Ouachita and Pointe-aux-Chenes WMAs except commercial fishing on Pointe-aux-Chenes is allowed in Cut Off Canal and Wonder Lake. No commercial fishing activity shall impede navigation and no unattended vessels or barges will be allowed. Non-compliance with permit regulations will result in revocation of commercial fishing privileges for the period the license is issued and one year thereafter. Commercial fishing is allowed on Pass-a-Loutre and Atchafalaya Delta WMAs. See Pass-a-Loutre for additional commercial fishing regulations on mullet.

11. Wildlife Management Areas Basic Season Structure. For season dates, bag limits, shooting hours, special seasons and other information consult the annual regulations pamphlet for specific details.

12. Resident Small Game (squirrel, rabbit, quail, mourning dove, woodcock, snipe, rail and gallinule). Same as outside except closed during modern firearm either-sex deer seasons and except non-toxic shot must be used for snipe, rail and gallinule. Consult regulations pamphlet. Unless otherwise specified under a specific WMA hunting schedule, the use of dogs for rabbit and squirrel hunting is prohibited. New spring squirrel season with or without dogs: 1st Saturday of May for 9 days. Consult regulations pamphlet for specific WMAs.

13. Waterfowl (ducks, geese and coots). Consult regulations pamphlet. Hunting after 2 p.m. prohibited on all WMAs except for Atchafalaya Delta, Biloxi, Lake Boeuf, Pass-a-Loutre, Pointe-aux-Chenes, Salvador/Timken and Wisner WMAs. Consult specific WMA regulations for shooting hours on these WMAs.

14. Archery. Consult regulations pamphlet.

15. Hogs. Consult regulations pamphlet for specific WMA regulations. Unmarked hogs may be taken during any legal hunting season, except during the spring squirrel season, on designated WMAs by properly licensed hunters using only guns or bow and arrow legal for specified seasons in progress. Hunters may harvest hogs during the month of

March on Pass-a-Loutre WMA only by using shotguns with shot no larger than BB lead or F steel, or .22 caliber rimfire firearms. Hogs may not be taken with the aid of dogs, except unmarked hogs may be taken with the aid of dogs on Pearl River, Red River and Three Rivers WMAs (consult Pearl River, Red River and Three Rivers WMAs regulations) by permit from either the Baton Rouge or Ferriday Offices and all hogs must be killed immediately and may not be transported live under any conditions and hunters may use centerfire pistols in addition to using guns allowed for season in progress.

16. Outlaw Quadrupeds and Birds. Consult regulations pamphlet. During hunting seasons specified on WMAs, incidental take of outlaw quadrupeds and birds is allowed by properly licensed hunters and only with guns or bows and arrows legal for season in progress on WMA. However, crows, blackbirds, grackles and cowbirds may not be taken before September 1 or after January 1.

#### 17. Wildlife Management Areas Hunting Schedule and Regulations

- a. Acadiana Conservation Corridor;
- b. Alexander State Forest. From December through February all hunters must check daily with the Office of Forestry for scheduled burning activity. No hunting or other activity will be permitted in burn units the day of the burning. Call 318-487-5172 or 318-487-5058 for information on burning schedules. Vehicles restricted to paved and graveled roads. No parking on or fishing or swimming from bridges. No open fires except in recreation areas;
- c. Atchafalaya Delta. Water control structures are not to be tampered with or altered by anyone other than employees of the Department of Wildlife and Fisheries at any time. ATVs, ATCs and motorcycles prohibited except as permitted for authorized WMA trappers;
- d. Attakapas;
- e. Bayou Macon. All night activities prohibited except as otherwise provided;
- f. Bayou Pierre;
- g. Bens Creek;
- h. Big Colewa Bayou. All nighttime activities prohibited;
- i. Big Lake;
- j. Biloxi;
- k. Bodcau;
- l. Boeuf;
- m. Buckhorn;
- n. Camp Beauregard. Daily military clearance required for all recreational users. Registration for use of Self-Clearing Permit required once per year. All game harvested must be reported on self-clearing checkout permit. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details;
- o. Clear Creek (formerly Boise-Vernon);
- p. Dewey W. Wills. Crawfish: 100 pounds per person per day;
- q. Elbow Slough. Steel shot only for all hunting;
- r. Elm Hall. No ATVs allowed;
- s. Floy Ward McElroy;
- t. Fort Polk. Daily military clearance required to hunt or trap. Registration for use of Self-Clearing Permit

required once per year. New special regulations apply to ATV users;

u. Grassy Lake. Commercial Fishing: Permitted except on Smith Bay, Red River Bay and Grassy Lake proper on Saturday and Sunday and during waterfowl season. Permits available from area supervisor at Spring Bayou headquarters or Opelousas Region Office. No hunting in restricted area;

v. Jackson-Bienville. Beginning September 1, 2004, ATVs are allowed only on non-public maintained gravel roads and marked ATV trails;

w. Joyce. Swamp Walk: Adhere to all WMA rules and regulations. No firearms or hunting allowed within 100 yards of walkways. Check hunting schedule and use walkway at your own risk;

x. Lake Boeuf. Hunting allowed until 12 noon on all game except during Youth Lottery Hunt. All nighttime activities prohibited;

y. Lake Ramsay. Foot traffic only, all vehicles restricted to Parish Roads;

z. Little River;

aa. Loggy Bayou;

bb. Manchac. Crabs: No crab traps allowed. Attended lift nets are allowed;

cc. Maurepas Swamp. No loaded firearms or hunting allowed within 100 yards of Nature Trail;

dd. Ouachita. Waterfowl Refuge: North of La. Hwy. 15 closed to all hunting, fishing and trapping and ATV use during duck season including early teal season. Crawfish: 100 pounds per person per day limit. Night crawfishing prohibited. No traps or nets left overnight. Commercial Fishing: Closed. All nighttime activities prohibited except as otherwise provided;

ee. Pass-a-Loutre. Commercial Fishing: Same as outside. Commercial mullet fishing open only in: South Pass, Pass-a-Loutre, North Pass, Southeast Pass, Northeast Pass, Dennis Pass, Johnson Pass, Loomis Pass, Cadro Pass, Wright Pass, Viveats Pass, Cognevich Pass, Blind Bay, Redfish Bay, Garden Island Bay, Northshore Bay, East Bay (west of barrier islands) and oil and gas canals as described on the Department Pass-a-Loutre WMA map. ATVs, ATCs and motorcycles prohibited on this area. Oyster harvesting is prohibited;

ff. Pearl River. All roads closed 8 p.m. to 4:30 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting will be closed when the river stage at Pearl River reaches 16.5 feet except waterfowl hunting south of Hwy. 90. No hunting in the vicinity of Nature Trail. Observe "No Hunting" signs. Rifle range open noon until 4 p.m. Friday, and 8 a.m. to 4:30 p.m. Saturday and Sunday with a fee;

gg. Peason Ridge. Daily military clearance required to hunt or trap. Registration for use of Self-Clearing Permit required once per year. Special federal regulations apply to ATV users;

hh. Pointe-aux-Chenes. Hunting until 12 noon on all game, except for mourning dove hunting and youth lottery deer hunt as specified in regulation pamphlet. Point Farm: Gate will be open all weekends during month of February. No motorized vessels allowed in the drainage ditches. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25

pounds per boat per day (heads on) maximum shall be allowed. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Oyster harvesting is prohibited. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. All boats powered by engines having horsepower ratings above 25 h.p. are not allowed in the Grand Bayou, Montegut and Pointe-aux-Chenes water management units. Public is permitted to travel anytime through the WMA for access purposes only, in the waterways known as Grand Bayou, Humble Canal, Little Bayou Blue and Grand Bayou Blue unless authorized by the Department. All other motorized vehicles, horses and mules are prohibited unless authorized by the Department;

ii. Pomme de Terre. Commercial Fishing: permitted Monday through Friday, except closed during duck season. Commercial fishing permits available from area supervisor, Opelousas Region Office or Spring Bayou headquarters. Sport Fishing: Same as outside except allowed only after 2 p.m. only during waterfowl season. Crawfish: April 1-July 31, recreational only, 100 lbs. per boat or group daily;

jj. Red River. Recreational crawfishing allowed on Yakey Farms wetland restoration projects February 1 to the last day of February, 100 pounds per person per day, maximum of five wire traps per person. No traps or nets left overnight. No motorized watercraft allowed;

kk. Russell Sage. Transporting trash or garbage on WMA roads is prohibited. All nighttime activities prohibited except as otherwise provided. Internal combustion engines and craft limited to 10 h.p. rating or less in the Greentree Reservoirs.

NOTE: All season dates on Chauvin Tract (U.S. 165 North) same as outside, except still hunt only and EXCEPT deer hunting restricted to archery only. All vehicles including ATVs prohibited;

ll. Sabine;

mm. Sabine Island. Sabine Island boundaries are Sabine River on the west, Cut-Off Bayou on the north, and Old River and Big Bayou on the south and east;

nn. Salvador/Timken. Hunting until 12 noon only for all game. All nighttime activities prohibited, including frogging. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be permitted. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) maximum may be taken for bait. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none of the lines are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per

boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Boats powered by internal combustion engines having horsepower ratings above 25 H.P. are permitted only in oil company access canals, Louisiana Cypress Canal, the Netherlands Pond including the West Canal, Lakes, "Baie Des Chactas" and "Baie du Cabanage," and the Rathborne Access ditch. Use of mudboats powered by internal combustion engines with four cylinders or less is permitted in interior ditches from first Saturday in September through January and may be further permitted. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited. ATVs, ATCs and motorcycles prohibited on this area;

oo. Sandy Hollow. Bird Dog Training: Consult regulation pamphlet. Wild birds only (use of pen-raised birds prohibited). Bird Dog Field Trials: Permit required from Baton Rouge Region Office. Horseback Riding: Organized trail rides prohibited. Riding allowed only on designated roads and trails. Horses and mules are specifically prohibited during turkey and gun season for deer except as allowed for bird dog field trials. No horses and mules on green planted areas;

pp. Sherburne. Crawfishing: Recreational crawfishing only on the South Farm Complexes. Crawfish harvest limited to 100 pounds per vehicle or boat per day. No traps or nets left overnight. No motorized watercraft allowed on farm complex. Commercial crawfishing not allowed. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details. Vehicular traffic prohibited on east Atchafalaya River levee within Sherburne WMA boundaries. Rifle and Pistol Range open daily. Skeet ranges open by appointment only, contact Hunter Education Office. No trespassing in restricted area behind ranges. Note: Atchafalaya National Wildlife Refuge, and U.S. Army Corps of Engineers land holdings adjacent to the Sherburne Wildlife Management Area will have the same rules and regulations as Sherburne WMA. No hunting or trapping in restricted area;

qq. Sicily Island Hills;

rr. Soda Lake. No motorized vehicles allowed. Bicycles allowed. All trapping and hunting prohibited except archery hunting for deer and falconry;

ss. Spring Bayou. Commercial Fishing: permitted Monday through Friday except slat traps and hoop nets permitted any day. Permits available from area supervisor or Opelousas Region Office. Closed until after 2 p.m. during waterfowl season. Sport Fishing: Same as outside except allowed only after 2 p.m. during waterfowl season. Crawfish: recreational only. No hunting allowed in headquarters area. Only overnight campers allowed in the improved Boggy Bayou Camping area. Rules and regulations posted at camp site. A fee is assessed for use of this campsite. Water skiing allowed only in Old River and Grand Lac;

tt. Tangipahoa Parish School Board. No horseback riding during gun season for deer or turkey. ATVs are not allowed;

uu. Thistlethwaite. No hunting or trapping in restricted area (See WMA Map). All motorized vehicles restricted to improved roads only. All users must enter and leave through main gate only. No entry into restricted areas;

vv. Three Rivers;

ww. Tunica Hills. All vehicles restricted to Parish roads. Access to restricted areas is unauthorized. Refer to WMA map. Camping prohibited on area. North of Hwy. 66 (North Tract) closed to all users the day after turkey season closes to August 31;

xx. Union. All nighttime activities prohibited except as otherwise provided;

yy. West Bay;

zz. Wisner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:1603 (July 2002), LR 29:1124 (July 2003), repromulgated LR 29:1522 (August 2003), amended LR 30:1495 (July 2004), LR 31:1611 (July 2005), LR 32:1251 (July 2006), LR 33:1382 (July 2007).

Bryant O. Hammett, Jr.  
Secretary

0707#029

## RULE

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Hunter Education Certification (LAC 76:I.312)

The Wildlife and Fisheries Commission does hereby establish regulations for mandatory hunter education certification.

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part I. Wildlife and Fisheries Commission and Agencies Thereunder

#### Chapter 3. Special Powers and Duties

#### Subchapter C. Hunter Education Program

#### §312. Hunter Education Program Certification Policy

A. The Wildlife and Fisheries Commission shall be the sole authority for establishing minimum requirements for certification of student and volunteer instructors and for the overall administration of the Louisiana Hunter Education Program. The Louisiana Hunter Education Program shall meet the minimum performance guidelines for the basic hunter education course as set forth by the International Hunter Education Association Hunter Education Standards.

B. The Department of Wildlife and Fisheries shall maintain an electronic database of all students and active instructors who have successfully met the requirements for certification.

C. Requirements for hunter education student certification shall be as follows:

1. For the standard taught hunter education course:
  - a. attend a minimum of 10 hours of required instruction;

b. complete a written exam prepared by the Louisiana Hunter Education Program exhibiting the required proficiency;

c. demonstrate the ability to safely handle hunting firearms; and

d. upon successful completion of the requirements, students shall receive credentials that validate such;

e. provide the required information necessary to complete a student application form.

2. For the home study program:

a. complete the required computer course as set forth by the Louisiana Hunter Education Program;

b. attend a field day scheduled through the Louisiana Hunter Education Program;

c. complete a written exam prepared by the Louisiana Hunter Education Program;

d. demonstrate the ability to safely handle hunting firearms; and

e. upon successful completion of the requirements, students shall receive credentials that validate such;

f. provide the required information necessary to complete a student application form.

D. Requirements for bowhunter education certification shall be as follows:

1. successfully complete the required bowhunter education course as set forth by the Louisiana Hunter Education Program in accordance with the National Bowhunter Education Foundation;

2. provide the required information necessary to complete a student application form.

E. Minimum age for certification in all courses within the Louisiana Hunter Education Program shall be 10 years of age.

F. All persons ages 10 and 11 who are hunter education certified, while hunting in the state of Louisiana, are to be accompanied by and under the direct supervision of a person who is 18 years of age or older and has a valid hunting license or proof of successful completion of a hunter education course approved by the department in order for that certification to be valid. Direct supervision means that the person being supervised shall be within normal audible voice proximity and in direct line of sight of the supervising adult at all times.

G. Requirements for volunteer instructor certification shall be as follows:

1. complete a minimum of 12 hours of classroom and field instructions;

2. pass a written exam prepared by the Louisiana Hunter Education Program;

3. demonstrate the ability to lead students through exercises that exhibit the safe handling of hunting firearms; and

4. upon successful completion of instructor training, candidates shall be certified for an initial two year period. Recertification shall be contingent on continued participation in the Louisiana Hunter Education Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:699.3

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 33:1396 (July 2007).

Bryant O. Hammett, Jr.  
Secretary

0707#030

**RULE**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

Oyster Lease Moratorium (LAC 76:VII.505)

The Wildlife and Fisheries Commission does hereby amend LAC 76:VII.505, which provides for a moratorium on the issuance of oyster leases. Said Rule is attached and made a part of this Notice of Intent.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 5. Oysters**

**§505. Oyster Lease Moratorium**

A. A moratorium on the issuance of oyster leases for waterbottoms not presently under lease is established. This includes a moratorium on the taking of oyster lease applications for waterbottoms not presently under lease. Applications pending at the time of the March 7, 2002 moratorium may be processed. This includes all pending applications that have been held, along with all fees paid, unless the applicant requested cancellation of the application and refund of fees. In the event of the death of an applicant, the applicant's heirs or legatees should so notify the department; and any lease ultimately issued shall only issue to persons placed in possession of the application by Judgment of Possession or to a court-appointed administrator or executor on behalf of a deceased applicant's estate.

B. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:422, R.S. 56:425, R.S. 56:429, and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 10:948 (November 1984), amended LR 29:374 (March 2003), LR 33:1397 (July 2007).

Bryant O. Hammett, Jr.  
Secretary

0707#031

**RULE**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

Reef Fish (LAC 76:VII.335)

Editor's Note: This Section is being repromulgated to correct a typographical error. The original Rule may be viewed on pages 1156-1157 of the June 20, 2007 edition of the *Louisiana Register*.

The Wildlife and Fisheries Commission has amended LAC 76:VII.335, modifying the recreational take and possession limit for red grouper, establishing a closed season for recreational harvest of gag, black and red grouper, prohibiting captain and crew from for-hire vessels from retaining bag limits of any grouper species while under

charter, modifying rules for commercial harvest of red snapper and establishing a permanent trip limit for commercial harvest of groupers, which are parts of the existing rule for daily take, possession, and size limits for reef fishes set by the commission. Authority for adoption of this Rule is included in R.S. 56:6(25)(a), 56:320.2, 56:326.1 and 56:326.3.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishery**

**§335. Reef Fish—Harvest Regulations**

A. Recreational bag limits regarding the harvest of reef fish—triggerfishes, amberjacks, grunts, wrasses, snappers, groupers, sea basses, tilefishes, and porgies, within and without Louisiana's territorial waters.

1. - 3. ...

4. Red hind, rock hind, speckled hind, black grouper, misty grouper, red grouper, snowy grouper, yellowedge grouper, yellowfin grouper, yellowmouth grouper, warsaw grouper, gag grouper, scamp	5 fish per person per day (in aggregate) with not more than 1 speckled hind and 1 warsaw grouper per vessel and with not more than 1 red grouper per person included in the bag limit
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A.5. - B.5. ...

**C. Charter Vessels and Headboats**

1. - 2. ...

3. Captain and crew members shall not harvest or possess grouper of any species while operating as charter vessels and headboats as defined in Federal Regulations 50 CFR Part 622.2—their bag limit is zero for all of these species.

**D. Red Snapper**

1. All persons aboard a vessel for which no commercial vessel permit for Gulf reef fish has been issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to the recreational bag limit for red snapper which may not be bartered or sold. No person aboard any vessel shall commercially possess, sell, barter, trade, exchange or attempt to sell, barter trade or exchange red snapper unless possessing a federal permit for the harvest of Gulf of Mexico Reef Fish and a federal red snapper Individual Fishing Quota (IFQ) vessel endorsement.

2. Requirement for IFQ Vessel Endorsement and Allocation: In addition to the federal commercial vessel permit for Gulf reef fish, in order to fish for, possess, or land Gulf red snapper, regardless of where harvested or possessed, a federal Gulf red snapper IFQ vessel endorsement must have been issued to the vessel and be on board. No person shall commercially harvest or land red snapper without holding or being assigned federal IFQ allocation at least equal to the pounds of red snapper landed/docked at a shore side location or off loaded. On the last fishing trip of the year a vessel may exceed by 10 percent the remaining IFQ allocation.

3. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any red snapper in excess of any possession limit for which federal commercial license, permit and appropriate allocation were issued.

4. Requirement for IFQ dealer endorsement: In addition to the requirement for a federal dealer permit for Gulf reef fish, for a dealer to receive Gulf red snapper from a commercial fishing vessel he must have a federal Gulf red snapper IFQ dealer endorsement. For a person aboard a vessel with a federal Gulf red snapper IFQ vessel endorsement to sell to anyone other than a permitted dealer, such person must also have a federal Gulf red snapper IFQ dealer endorsement.

5. Requirement for Transaction Approval Code: The owner or operator of a vessel landing red snapper is responsible for calling National Marine Fisheries Service (NMFS) Office of Law Enforcement at least three hours, but no more than 12 hours, in advance of landing to report the time and location of landing and the name of the IFQ dealer where the red snapper are to be received. Failure to comply with this advance notice of landing requirement will preclude authorization to complete the required NMFS landing transaction report and, thus, will preclude issuance of the required NMFS-issued transaction approval code. Possession of commercial red snapper from the time of transfer from a vessel through possession by a dealer is prohibited unless the red snapper are accompanied by a transaction approval code verifying a legal transaction of the amount of red snapper in possession.

6. Offloading and Transfer: No person shall offload from a vessel or receive from a vessel commercially harvested red snapper during the hours from 6 p.m. until 6 a.m., local time. No person who is in charge of a commercial red snapper fishing vessel shall offload red snapper from the vessel prior to three hours after proper notification is made to NOAA Fisheries. At-sea or dockside transfer of commercial red snapper from one vessel to another vessel is prohibited.

7. VMS requirement: No person shall commercially harvest red snapper from a vessel unless that vessel is equipped with a fully operational and federally approved Vessel Monitoring System (VMS) device. Approved devices are those devices approved by National Oceanographic and Atmospheric Administration (NOAA) Fisheries and operating under the requirements mandated by NOAA Fisheries.

E. - E.13. ...

F. Definitions: Federal regulations 50 CFR Part 622.2 defines charter vessels and headboats as follows.

1. *Charter Vessel*—a vessel less than 100 gross tons that meets the requirements of the U.S. Coast Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year. A charter vessel with a commercial permit is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

2. *Headboat*—a vessel that holds a valid Certificate of Inspection issued by the U.S. Coast Guard to carry passengers for hire. A headboat with a commercial vessel permit is considered to be operating as a headboat when it carries a passenger who pays a fee or, in the case of persons aboard fishing for or possessing coastal migratory fish or Gulf reef fish, when there are more than three persons aboard, including operator and crew.

#### G. Seasons

1. Seasons for the commercial harvest of reef fish species or groups shall be closed within and without Louisiana's territorial waters during the periods listed below. Possession of reef fish in excess of the daily bag limit while on the water is prohibited during the specified closed season. Any reef fish harvested during the closed season shall not be purchased, sold, traded, bartered or exchanged or attempted to be purchased, sold, traded, bartered or exchanged. This prohibition on sale/purchase does not apply to reef fish that were harvested, landed ashore, sold and purchased prior to the closed season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing reef fish taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Species or Group	Closed Season
a. greater amberjack	March 1 through May 31
b. gag, black and red grouper	February 15 through March 14
c. vermilion snapper	April 22 through May 31

2. Seasons for the recreational harvest of reef fish species or groups listed below shall be closed during the periods listed below.

Species or Group	Closed Season
a. gag, black and red grouper	February 15 through March 14

3. Persons aboard a vessel for which the permits indicate both charter vessel/headboat for Gulf reef fish and commercial Gulf reef fish may continue to retain reef fish under the recreational take and possession limits specified in §335.A and §335.C, recreational seasons specified in §335.G.2 and size limits specified in §335.E, provided the vessel is operating as a validly licensed charter vessel or headboat with prepaid recreational charter fishermen aboard the vessel.

4. The provisions of §335.G apply to fish taken within or without Louisiana's territorial waters.

#### H. Commercial Grouper Trip Limits

1. Those persons possessing a federal commercial vessel permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to a commercial trip limit of 6,000 pounds gutted weight of deep-water and shallow-water grouper per vessel combined, during the open seasons for each of those species groups.

2. When the commercial season for each species or species groups is closed, the commercial trip limit for that species or species group is zero. Effective with any commercial trip or possession limit under this Rule, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell, or attempt to purchase, exchange, barter, trade or sell the affected species or species group, whether taken from within or without Louisiana territorial waters in excess of such established commercial trip or possession limit.

1. Wholesale dealers are required to comply with the provisions of R.S. 56:306.5 and R.S. 56:306.6 when acquiring, purchasing, possessing and selling reef fish. Wholesale dealers shall maintain approval codes issued by



NOAA Fisheries associated with all transactions of red snapper on purchases and sales on records.

J. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15, for reef fishes while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange reef fishes within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:320.2(C), 56:326.1, and 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138, 1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:3166 (December 2005), LR 33:1156 (June 2007), repromulgated LR 33:1397 (July 2007).

Bryant O. Hammett, Jr.  
Secretary

0707#009

**RULE**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Resident Hunting Season Dates (LAC 76:XIX.101 and 103)**

The Wildlife and Fisheries Commission does hereby promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part XIX. Hunting and WMA Regulations**

**Chapter 1. Resident Game Hunting Season**

**§101. General**

A. The Resident Game Hunting Season regulations are hereby adopted by the Wildlife and Fisheries Commission. A

**C. Deer Hunting Schedule**

Area	Archery	Muzzleloader (All Either Sex Except as Noted)	Still Hunt (No Dogs Allowed)	With or Without Dogs
1	OPENS: First day of Oct. CLOSES: Last day of Jan.	OPENS: Second Sat. of Nov. CLOSES: Fri. after Second Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last Sun. of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the Third Sat. of Nov. CLOSES: Fri. before Second Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the First Sat. of Dec. OPENS: Mon. after First Sat. of Jan. CLOSES: Next to last Sun. of Jan.	OPENS: Second Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the First Sat. of Dec. CLOSES: Sun. after first Sat. of Jan.

complete copy of the Regulation Pamphlet may be obtained from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), LR 30:1493 (July 2004), LR 31:1627 (July 2005), LR 32:1253 (July 2006), LR 33:1399 (July 2007).

**§103. Resident Game Birds and Animals**

A. Shooting Hours. One-half hour before sunrise to one-half hour after sunset.

B. Consult Regulation Pamphlet for seasons or specific regulations on Wildlife Management Areas or specific localities.

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	OPENS: Third Saturday of November CLOSES: Last Day of February	10	20
Rabbit and Squirrel	OPENS: First Saturday of October CLOSES: Last Day of February	8	16
Squirrel*	OPENS: First Saturday of May for 23 days	3	6
Deer	See Schedule	1 antlered and 1 antlerless (when legal)	6/season (3 antlered deer and 3 antlerless deer)

\*NOTE: Spring squirrel season is closed on the Kisatchie National Forest, National Wildlife Refuges, U.S. Army Corps of Engineers property. Some State Wildlife Management Areas will be open, check WMA season schedule.

Area	Archery	Muzzleloader (All Either Sex Except as Noted)	Still Hunt (No Dogs Allowed)	With or Without Dogs
2	OPENS: First day of Oct. CLOSES: Last day of Jan.	OPENS: Next to last Sat. of Oct. CLOSES: Fri. before last Sat. of Oct. OPENS: Mon. after Second Sat. of Jan. CLOSES: Sun. after Third Sat. of Jan.	OPENS: Last Sat. of Oct. CLOSES: Tues. before Second Sat of Dec. in odd numbered years and on Wed. during even numbered years EXCEPT when there are 5 Sats. in Nov. and then it will close on the Tues. in odd numbered years or Wed. during even numbered years before the First Sat. of Dec.	OPENS: Wed. before the Second Sat. of Dec. in odd numbered years and on Thurs. during even numbered years EXCEPT when there are 5 Sats. in Nov., then it will open on the Wed. before the First Sat. of Dec on odd years and Thurs. during even numbered years. CLOSES: Sun. after Second Sat. of Jan.
3	OPENS: Third Sat. of Sept. CLOSES: Jan. 15	OPENS: Second Sat. of Oct. CLOSES: Fri. before Third Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before First Sat. of Dec.	OPENS: Third Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: First Sat. of Dec. CLOSES: After 37 days	
4	OPENS: First day of Oct. CLOSES: Last day of Jan.	OPENS: First Sat. of Nov. CLOSES: Fri. before Second Sat. of Nov. OPENS: Mon. after First Sat. of Jan. CLOSES: Mon. after Second Sat. of Jan.	OPENS: Second Sat. of Nov. CLOSES: Sun. after First Sat. of Jan.	
5	OPENS: First day of Oct. CLOSES: Last day of Jan.	OPENS: Second Sat. of Nov. CLOSES: Fri. before Third Sat. of Nov. (BUCKS ONLY) OPENS: Day after Christmas Day CLOSES: Jan. 1 (BUCKS ONLY)	OPENS: Day after Thanksgiving Day CLOSES: Sun. after Second Sat. of Dec.	
6	OPENS: First day of Oct. CLOSES: Feb. 15 (First 15 days are BUCKS ONLY)	OPENS: Second Sat. of Nov. CLOSES: Fri. before Third Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last Sun. of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the Third Sat. of Nov. CLOSES: Fri. before Second Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. And then it will close on the Fri. before the First Sat. of Dec.	OPENS: Second Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the First Sat. of Dec. CLOSES: Next to last Sun. of Jan.
7	OPENS: First day of Oct. CLOSES: Last day of Jan.	OPENS: Second Sat. of Oct. CLOSES: Fri. before Third Sat. of Oct. OPENS: First Sat. of Nov. CLOSES: Fri. before Second Sat. of Nov.	OPENS: Third Sat. of Oct. CLOSES: Fri. before First Sat. of Nov. OPENS: Second Sat. of Nov. CLOSES: Sun. after Thanksgiving Day	OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days
8	OPENS: Third Sat. of Sept. CLOSES: Jan. 15	OPENS: Second Sat. of Oct. CLOSES: Fri. before Third Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before First Sat. of Dec.	OPENS: Third Sat. of Oct. CLOSES: Sun. after Thanksgiving Day	OPENS: First Sat. of Dec. CLOSES: After 37 days.

D. Modern Firearm Schedule (Either Sex Seasons)

Parish	Area	Modern Firearm Either-Sex Days
East Carroll	Area 4 portion 2007-2008	Antlerless deer may be harvested during entire deer season on private lands (all segments included), east of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison Parish line.
East Carroll	Area 1 New for 2008-2009	Antlerless deer may be harvested during entire deer season on private lands (all segments included), east of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison Parish line.

Parish	Area	Modern Firearm Either-Sex Days
East Carroll	Area 4 portion	Nov. 10-11, 23-25, 2007 and Nov. 8-9, 28-30, 2008, west of mainline Mississippi River Levee and north and west of La. 877 from West Carroll Parish line to La. 580, north of La. 580 to U.S. 65, east of U.S. 65 to Madison Parish line.
West Carroll	Area 5	Nov. 23-25, 2007 and Nov. 28-30, 2008

E. Farm Raised White-tailed Deer on Supplemented Shooting Preserves: Archery, Firearm, Muzzleloader: October 1-January 31 (Either Sex)

F. Exotics on Supplemented Shooting Preserves: Either sex, no closed season.

G. Promotional Hunting Days

1. The following dates are established as promotional hunting days: the first three days after Thanksgiving Day.

#### H. Spring Squirrel Hunting

1. Season Dates: Opens first Saturday of May for 23 days.
2. Closed Areas: Kisatchie National Forest, National Wildlife Refuges, and U.S. Army Corps of Engineers property and all WMAs except as provided in Paragraph 3 below.
3. Wildlife Management Area Schedule: Opens first Saturday of May for 9 days on Bodcau, Boeuf, Clear Creek, Little River, Maurepas Swamp (East Tract), Russell Sage, and Sherburne WMAs only. Dogs are allowed during this season for squirrel hunting. Feral hogs may not be taken on Wildlife Management Areas during this season.

4. Limits: Daily bag limit is three and possession limit is six.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:109(B) and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), repromulgated LR 29:1521 (August 2003), amended LR 30:1494 (July 2004), LR 31:1627 (July 2005), LR 32:1254 (July 2006), LR 33:115 (January 2007), LR 33:1399 (July 2007).

Bryant O. Hammett, Jr.  
Secretary

0707#028

# Notices of Intent

## NOTICE OF INTENT

### Department of Agriculture and Forestry Office of the Commissioner

#### Fluoroquinolones in Seafood (LAC 7:XXXV.511)

The Commissioner of Agriculture and Forestry proposes to adopt the following Rule governing the testing and sale of seafood in Louisiana. This Rule is being amended in accordance with R.S. 3:2A, 3:3B, and R.S. 3:4608 of the Administrative Procedure Act.

The commissioner intends to promulgate these rules and regulations to implement standards relating to Fluoroquinolones in seafood that are consistent with standards adopted by the United States Food and Drug Administration, (FDA), regarding Fluoroquinolones in foods. All seafood sold in Louisiana must meet the standards set out in these regulations prior to distribution and sale of seafood in Louisiana. China is a geographic area where Fluoroquinolones is being used on or found in food producing animals or in products from such animals because Mississippi and Alabama have found Fluoroquinolones in fish from China. Additionally, testing by the department has resulted in positive testing of fish from China for the presence of Fluoroquinolones.

Fluoroquinolones are broad-spectrum antibiotics that have been restricted by the FDA for extra-label use. The FDA banned the extra label use of Fluoroquinolones in food producing animals in 1997 after determining that such use presented a risk to the public health. That ban is still in effect, see (21 CFR 530.41). "Extra-label use" means "actual use or intended use of a drug in an animal in a manner that is not in accordance with the approved labeling," see 21 CFR 530.3(a).

Since, the FDA has not established a safe level, tolerance level or safe concentration for Fluoroquinolones there is a zero tolerance level for Fluoroquinolones. Therefore, foods in which Fluoroquinolones are found are adulterated foods under the United States and Louisiana Food, Drug, and Cosmetics Acts.

Fluoroquinolones have been known to cause hypersensitivity or allergic reactions, toxicity-related reactions, and to an increased prevalence of infections due to antibiotic-resistant microorganisms. Hypersensitivity reactions can include life-threatening anaphylaxis, as well as urticaria, dermatitis, vomiting, and diarrhea. There is a significant chance that these reactions may be attributed to other factors, thereby causing a misdiagnosis, and subsequent mistreatment of a person's medical condition.

Toxicity can affect multiple organ systems and include peripheral neuropathies, seizures, phototoxicity, tendon rupture, fatal drug interactions and arthropathies in children. Fluoroquinolones should not be taken by pregnant and lactating women due to concern over the potential effect on a developing fetus.

This Rule is enabled by R.S. 3:2A, R.S. 3:3B, and R.S. 3:4608.

## Title 7

### AGRICULTURE AND ANIMALS

#### Part XXXV. Agro-Consumer Services

#### Chapter 5. Consumer Products—Testing and Labeling

##### Subchapter B. Fluoroquinolones

#### §511. Fluoroquinolones in Seafood Prohibited; Testing and Sale of

A. - K. ...

L. The commissioner declares that he has information that would lead a reasonable person to believe that Fluoroquinolones is being used on or found in food producing animals or in products from such animals, in the following geographic area(s).

1. The geographic area or areas are:

- a. the country of Vietnam;
- b. the country of China.

2. All seafood harvested from or produced, processed or packed in any of the above listed geographic areas is hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

M. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division, LR 33:38 (January 2007), amended LR 33:

#### Family Impact Statement

The proposed amendments to the Rule in LAC 7:XXXV.511 regarding the testing and sale of seafood in Louisiana for Fluoroquinolones set out in R.S. 3:2, 3:3, and 3:4608 should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rule to Todd Thompson through August 27, 2007 at 5825 Florida Blvd., Baton Rouge, LA 70806. No preamble regarding this Rule is available.

Bob Odom  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Fluoroquinolones in Seafood**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The estimated implementation cost to state government is \$30,000 per year. The implementation of these rules requires the regulatory sampling and testing of certain foreign foods to ensure chemical free products. The rule, as proposed, adds China as a geographic area for the testing of a class of antibiotics known as Fluoroquinolones and would require importers of certain seafood products and fish to be tested prior to sale if the product comes from an area known to use Fluoroquinolones in food or food products. Fluoroquinolones are a known health risk and its use in food or food producing animals is banned by FDA. There is estimated to be no implementation costs to local government.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is estimated that these rules will not have an effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be a cost to importers of foreign seafood and fish from countries where Fluoroquinolones (a banned antibiotic in food and food producing animals) is known to be found. The importers must have these certain foods tested prior to being offered for sale or sold in Louisiana. The estimated cost is \$300 per lot of product. This will allow the division to test 100 samples per year. The total cost of sampling will be \$30,000.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated impact on competition or employment. The proposed action is foreseen to improve the quality of imported seafood and fish to the consumer. This will facilitate a fair and safe market for foreign and domestic seafood and fish.

Skip Rhorer  
Assistant Commissioner  
0707#012

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Small and Emerging Business Development Program  
(LAC 19:II.105-115)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Economic Development, Office of Business Development, hereby proposes to amend its existing rules and regulations relative to its Small and Emerging Business Development Program, and to adopt the following amended rules and regulations relative to the Small and Emerging Business Development Program. The intended action complies with the statutory law administered by the agency, as authorized by R.S. 51:941 et seq.

The department proposes to amend §§105 through 115 of Chapter I. The proposed amendments change the definition of a small and emerging business by changing the percentage ownership and net worth requirements; provide

that an application must be submitted on-line through the department's website; and increases the duration of certification from 7 to 10 years.

**Title 19**

**CORPORATIONS AND BUSINESS**

**Part II. Small and Emerging Business Development**

**Program**

**Chapter 1. General Provisions**

**§105. Definitions**

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

\* \* \*

*Full-Time*—working in the firm at least 20 hours per week.

\* \* \*

*Small and Emerging Business (SEB)*—a small business organized for profit and performing a commercially useful function which is at least 51 percent owned and controlled by one or more small and emerging business persons and which has its principal place of business in Louisiana. A nonprofit organization is not a small and emerging business for purposes of this Chapter.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:942.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:542 (April 2003), LR 30:753 (April 2004), LR 33:

**§107. Eligibility Requirements for Certification**

A. ...

B. - B.2. ...

3. **Net Worth.** The person's net worth may not exceed \$400,000. The market value of the individual owner's personal residence, 401K, IRA, and other legal retirement funds will be excluded from the net worth calculation.

C. **Small and Emerging Business**

1. **Ownership and Control.** At least 51 percent of the company must be owned and controlled by one or more small and emerging business persons.

2. - 3. ...

4. **Business Net Worth.** The business' net worth at the time of application may not exceed \$1,500,000.

5. **Full Time.** Managing owners who claim small and emerging business person status must work a minimum of 20 hours per week in the applicant firm.

6. **Job Creation.** An applicant firm anticipates creating new full-time jobs.

D. **Requirement for Certification.** Must have an e-mail address and appropriately complete the on-line application located at [www.ledsmallbiz.com](http://www.ledsmallbiz.com).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:942.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998), LR 25:1084 (June 1999), LR 26:1572 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:542 (April 2003), LR 30:754 (April 2004), LR 33:

## §109. Control and Management

A. ...

1. The small and emerging business person(s) upon whom eligibility is based shall control the board of directors of the firm, either in actual numbers of voting directors or through weighted voting. In the case of a two-person board of directors where one individual on the board is a small and emerging business person and one is not, the formers vote must be weighted by share ownership, worth more than one vote to achieve a minimum of 51 percent control, in order for the firm to be eligible for the program. This does not preclude the appointment of nonvoting or honorary directors. All arrangements regarding the structure and voting rights of the board must comply with state law and with the firm's articles of incorporation and/or bylaws.

A.2. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:51 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:543 (April 2003), LR 30:754 (April 2004), LR 33:

## § 111. Responsibility for Applying

A. ...

B. Certification in the SEBD Program is accomplished on-line at [www.ledsmallbiz.com](http://www.ledsmallbiz.com). Applicants must have an e-mail address to become certified in the SEBD Program.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:543 (April 2003), LR 30:755 (April 2004), LR 33:

## §113. Certification Application Procedure

A. Applicant completes and submits an on-line application at [www.ledsmallbiz.com](http://www.ledsmallbiz.com) to the SEBD office.

B. ...

C. The director, or designee, notifies the applicant by e-mail of the decision whether or not to grant certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:755 (April 2004), LR 33:

## §115. Duration of Certification

A. The maximum amount of time that a firm may be granted certification by the SEBD Program is 10 years or when the owner or firm no longer qualifies, whichever occurs first.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), amended LR 26:1572 (August 2000), amended by the Department of Economic Development, Office of Business

Development, LR 29:544 (April 2003), LR 30:755 (April 2004), amended by the House Concurrent Resolution Number 8 of the 2006 Regular Legislative Session, LR 32:1536 (August 2006), amended by the Department of Economic Development, Office of Business Development, LR 33:

## Family Impact Statement

The proposed Rule in LAC 19:II.Chapter 1, Small and Emerging Business Development Program, should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Craig Hartberg, through the close of business on August 20, 2007, at P.O. Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton Rouge, LA 70802. Comments may also be submitted by e-mail to [Hartberg@la.gov](mailto:Hartberg@la.gov); by fax to 225-342-5349. A meeting for the purpose of receiving the presentation of oral comments will be held on August 27, 2007, at the Department of Economic Development, 1301 N. Third St., Baton Rouge, LA.

Don Pierson  
Assistant Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Small and Emerging Business Development Program

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no incremental costs or savings to state or local governmental units due to the implementation of these rules for the Small and Emerging Business Development (SEBD) Program. Current staff of the Department will be sufficient to process and monitor these Rules within the Program. Funding of this Program will come from the regular appropriations received by the Department of Economic Development and the Economic Development Fund.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected impact or effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated additional costs to directly affected persons or non-governmental groups. The Small and Emerging Business Owners will be the direct beneficiaries of the proposed revision and re-adoption of the rules of the Small and Emerging Business Development Program. Eligibility requirements will be expanded to include additional small businesses in the program. Applicant certification time frames will be expedited through an on-line certification process.

Maximum service delivery time will be expanded to ten years or whenever the owner or business no longer qualifies for the program. All these changes will enhance and expand economic development throughout Louisiana and improve the standard of living and the quality of life of Louisiana citizens.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The purpose and intent of these Rules are to provide the maximum opportunity for small and emerging businesses to become competitive in a non-preferential modern economy. Investments by new and expanding Louisiana-based businesses as contemplated by the Rule will enhance this State's economic development through the formation of new or expanding businesses, which investments in Louisiana will help create and/or retain jobs for Louisiana citizens and thereby enhance and expand economic development throughout Louisiana.

Daryl K. Manning  
General Counsel  
0707#024

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System—Criteria and Performance (LAC 28:LXXXIII.301, 1101, and 1403-1407)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC Part Number LXXXIII). Proposed changes in §301 expand the criteria for schools considered at risk of failing to be furnished with accountability data during the preliminary release. Proposed changes in §1101 simplify the criterion for schools with school performance scores of 120 or greater being exempt from Academic Assistance (AA) status. The changes proposed for §1403 simplify the criterion for schools to enter AA and describe circumstances under which and procedures by which districts may request waivers of AA status to the Louisiana Department of Education. The proposed changes for §§1405 and 1407 update the criterion by which schools enter and exit AA and reduce the number of higher-performing schools identified for AA with the expected outcome being that LEAs will focus more resources on their schools that are not adequately growing toward the 2014 goal of a School Performance Score of 120. There are no estimated implementation costs (savings) to state or local governmental units as a result of these changes.

#### Title 28

#### EDUCATION

#### Part XXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System

#### Chapter 3. School Performance Score Component

#### §301. School Performance Score Goal

A. - E.1.c. ...

2. In 2007, the preliminary accountability results shall include those schools identified as:

a. failing the SPS component based on the 2007 Baseline SPS; or

b. failing the SPS component based on the 2006 Baseline SPS; or

c. being in school improvement (any level) in academic year 2006-07; or

d. failing the subgroup component based on spring 2006 test results.

F. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 31:1512 (July 2005), LR 32:1017 (June 2006), LR 32:2034 (November 2006), LR 32:2035 (November 2006), LR 33:424 (March 2007), LR 33:

#### Chapter 11. Performance Labels

#### §1101. Performance Labels

A. ...

B. When a school's performance label is greater than or equal to four stars (SPS  $\geq$  120.0), it shall not receive a "negative" growth label (minimal academic growth, no growth, school in decline).

C.1. In 2005, 3 star schools will not receive negative growth labels.

2. In 2006 and 2007, 3 star schools with SPSs greater than or equal to 105.0 will not receive negative growth labels.

3. In 2008 and 2009, 3 star schools with SPSs greater than or equal to 110.0 will not receive negative growth labels.

4. In 2010 and 2011, 3 star schools with SPSs greater than or equal to 115.0 will not receive negative growth labels.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2744 (December 2003), amended LR 31:2764 (November 2005), LR 33:

#### Chapter 14. Academic Assistance (formerly School Improvement 1)

#### §1403. Entry into Academic Assistance

A. Beginning in 2007, schools with growth targets greater than 7.0 points shall enter academic assistance level 1 (AA1). In 2010, this value decreases to 6.0 points, and in 2013, to 5.0 points.

B. Districts may submit requests to the State Superintendent of Education for waivers from AA status, if either of the following applies.

1. The total number of academically unacceptable (AUS) schools, schools in school improvement, and schools in academic assistance exceeds 30 percent of the non-alternative schools in the district.

a. Waiver requests based on the 30 percent limit must be for individual schools and can only serve as a means to establish a reasonable number of schools on which to focus resources.

2. The school or schools for which a district is requesting waivers implemented reforms or innovations that should show substantially improved student achievement the following year.

a. Any waiver request based on Paragraph 2 must be accompanied by documentation that shows implementation of the reforms/innovations in the previous

year. The documentation must include classroom observations. The Degree of Implementation Guide may serve this purpose.

b. A school cannot receive a waiver for two consecutive years based on Paragraph 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1513 (July 2005), amended LR 33:

#### **§1405. Movement in and Exit from Academic Assistance**

A. Schools move one level higher in academic assistance when their newly calculated growth target exceeds 8.0 SPS points (a school in AA2 moves to AA3).

B. Schools remain at the same level of academic assistance when they do not advance or exit academic assistance.

C. Schools exit academic assistance when their growth targets are 5.0 or fewer points.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1513 (July 2005), amended LR 33:

#### **§1407. Exit from Academic Assistance**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1513 (July 2005), repealed LR 33:

#### **Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office, which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., September 8, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Bulletin 111—The Louisiana School, District, and State Accountability System—Criteria and Performance**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
0707#040

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Board of Elementary and Secondary Education**

#### **Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:CXI.2007)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to Bulletin 118—*Statewide Assessment Standards and Practices*, §2007, Performance Standards. Bulletin 118 contains the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The purpose of this project is to provide information regarding Chapter 20, LEAP Alternate Assessment (LAA 2), Subchapter C, Achievement Levels and Performance Standards, §2007.D, regarding the addition of Achievement Level Scaled Score Ranges for grades 5, 6, 7, and 9. The revisions will consolidate statewide test information and provide easy access to that information. It was necessary to revise the bulletin at this time to incorporate guidelines for newly developed statewide assessments used in testing and add new language to established assessment guidelines.

#### **Title 28**

#### **EDUCATION**

#### **Part CXI. Bulletin 118—Statewide Assessment Standards and Practices**

#### **Chapter 20. LEAP Alternate Assessment, Level 2 Subchapter C. Achievement Levels and Performance Standards**

#### **§2007. Performance Standards**

A. - C. ...



D. The top end of the Basic achievement level was truncated at a scale score of 340 in all cases because the LAA 2 assessment was not designed to accurately assess

students who may be emerging into the Mastery achievement level.

### LAA 2 Achievement Levels and Scaled Score Ranges

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
	Grade 4			
Basic	301–340	315–340		
Approaching Basic	263–300	282–314		
Foundational	227–262	248–281		
Pre-Foundational	100–226	100–247		

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
	Grade 5			
Basic	286–340	282–340		
Approaching Basic	247–285	250–281		
Foundational	213–246	215–249		
Pre-Foundational	100–212	100–214		

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
	Grade 6			
Basic	280–340	281–340		
Approaching Basic	239–279	248–280		
Foundational	177–238	201–247		
Pre-Foundational	100–176	100–200		

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
	Grade 7			
Basic	286–340	292–340		
Approaching Basic	236–285	255–291		
Foundational	185–235	220–254		
Pre-Foundational	100–184	100–219		

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
	Grade 8			
Basic	315–340	321–340		
Approaching Basic	269–314	296–320		
Foundational	223–268	263–295		
Pre-Foundational	100–222	100–262		

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
	Grade 9			
Basic	291–340	293–340		
Approaching Basic	219–290	263–292		
Foundational	121–218	221–262		
Pre-Foundational	100–120	100–220		

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
	Grade 10		Grade 11	
Basic	299–340	305–340	301–340	297–340
Approaching Basic	270–298	286–304	267–300	275–296
Foundational	221–269	241–285	214–266	241–274
Pre-Foundational	100–220	100–240	100–213	100–240

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4 (A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:270 (February 2007), amended LR 33:

### Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., August 9, 2007, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Bulletin 118—Statewide Assessment Standards and Practices

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule adds the achievement level scaled score ranges for grades 5, 6, 7, and 9 for the LEAP Alternate Assessment (LAA 2). The proposed rule change will have no implementation cost to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections at the state or local governmental levels.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no effect on costs and/or economic benefits to directly affected persons or Non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition and employment.

Beth Scioneaux  
Acting Deputy Superintendent  
Management and Finance  
0707#044

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28: CXV.1103, 2323, and 2324)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*, §1103. Compulsory Attendance, §2323, Proficiency Examinations, and §2324, Credit Recovery. The revision to §1103 allows schools to provide instruction outside regular class time so that students who are failing due to excessive absences to make up the instructional time they missed. The revision to §2323 allows students who have failed a course to take a proficiency exam for that course. Current policy does not allow students who have taken a course to take a proficiency exam. The addition of §2324 allows districts to implement credit recovery programs for students who have failed a course.

These two revisions are the result of a recommendation from the High School Redesign Commission that policy changes be considered to help students who are failing or who are in danger of failing to recover credit. The revision to §1103 assists students who are in danger of failing due to excessive absences. The revision to §2323 and the addition of §2324 provide ways for students to recover credit after they have failed a class.

### Title 28

### EDUCATION

#### Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

#### Chapter 11. Student Services

#### §1103. Compulsory Attendance

A. - F. ...

G. In order to be eligible to receive grades, high school students shall be in attendance a minimum of 81 days, or the equivalent, per semester or 162 days a school year for schools not operating on a semester basis. Elementary students shall be in attendance a minimum of 160 days a school year.

1. Students in danger of failing due to excessive absences may be allowed to make up missed time in class sessions held outside the regular class time. The make-up sessions must be completed before the end of the current semester and all other policies must be met.

H. - M. Note. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:221; R.S. 17:226; R.S. 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1273 (June 2005), amended LR 32:546 (April 2006), LR 32:1030 (June 2006), LR 33:

#### Chapter 23. Curriculum and Instruction

#### §2323. Proficiency Examinations

A. High school credit shall be granted to a student following the student's passing of a proficiency examination for the eligible course.

B. A proficiency examination shall be made available to a student when a school official believes that a student has

mastered eligible subject matter and has reached the same or a higher degree of proficiency as that of a student who successfully completed an equivalent course at the regular high school or college level.

1. The testing instrument and the passing score shall be submitted for approval to the Division of Student Standards and Assessments of the DOE.

2. The course title, year taken, P/F (Pass or Fail) and unit of credit earned shall be entered on the *Certificate of High School Credits* (transcript). MPS (Minimum Proficiency Standards) must be indicated in the remarks column.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, and R.S. 17:391.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1294 (June 2005), amended LR 33:

### **§2324. Credit Recovery**

A. Credit recovery refers to instructional programs for students who have failed courses taken previously.

B. LEAs may develop credit recovery programs which are self-paced and competency-based.

1. Students earning Carnegie credit in a credit recovery course must have previously taken and failed the course.

2. Students shall not be required to meet attendance requirements in §1103.G for credit recovery courses, provided students have met attendance requirements when they took the course previously or the students' combined attendance during the previous course and the credit recovery course meet the attendance requirements. Schools shall not be required to meet the instructional time requirements in §907.A for credit recovery courses.

3. Credit recovery courses must be aligned with the state's content standards and grade-level expectations.

4. Credit recovery courses taught in a classroom setting using computer software programs designed for credit recovery must be facilitated by a certified teacher.

a. Additional instruction to cover standards and grade-level expectations not included in the software programs shall be provided by a teacher properly certified in the content area.

5. One of the following criteria must be met for a student to earn Carnegie credit in a credit recovery course.

a. The student must successfully complete the course requirements for a computer-based credit recovery program approved by the DOE.

b. The student must pass a comprehensive final exam approved by the DOE. The exam could be an end-of-course exam developed by the DOE or a locally-developed comprehensive final exam. The locally-developed final exam and the passing score shall be submitted for approval to the Division of Student Standards, Assessments, and Accountability of the DOE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

### **Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a

Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., September 8, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The implementation of changes requires no cost or savings to state governmental units. The revision to §2323 allows students who have failed a course to take a proficiency exam for that course. Current policy does not allow students who have taken a course to take a proficiency exam. The revision to §1103 allows schools to provide instruction outside regular class time so that students who are failing due to excessive absences to make up the instructional time they missed. If school districts choose to do this, the cost would include teacher salaries and school operational costs for the extra instructional time. The additional costs cannot be determined at this time. The addition of §2324 allows districts to implement credit recovery programs for students who have failed a course.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no costs or economic benefits to schools or school districts.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
Management and Finance  
0707#045

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Policy Revisions  
(LAC 28: CXV.503, 505, 1107, 1109, 2305, 2313, 2319, and 2355)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*.

The revision to §503 adds business manager to the list of certified personnel a district is required to hire. This addition was required by a new state statute.

The revision to §1107 indicates the procedure used for students who register without presenting a Social Security card.

Paragraphs A and B of §1109 were deleted because the state statute on which they were based was repealed. These paragraphs dealt with the assignment and transfer of students.

§2305 requires schools to have an educational program commemorating Constitution Day. This addition to policy is based on federal law.

The revision to §2313 adjusts the recommended instructional schedule for prekindergarten.

The revisions to §505, §2355, and §2319 correct minor errors in the policies.

## Title 28 EDUCATION

### Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

#### Chapter 5. Personnel

##### §503. Staff Organization

A. The professional staff of the local LEA's central office shall be organized with assigned roles, responsibilities and authority to provide a structure for implementing local school policies.

B. Each LEA shall be required to employ certified personnel as required by state/federal law:

1. superintendent;
2. special education supervisor;
3. Title IX coordinator;
4. child welfare and attendance supervisor;
5. school nurse;
6. school food services supervisor;
7. business manager.

NOTE: See Bulletin 1929: Louisiana Accounting and Uniform Governmental Handbook, §1301.

C. The LEA shall assign principals to schools as appropriate.

D. For LEAs in any parish having a population of at least 475,000 persons, a full-time social worker shall be employed in each school which has been identified as a failing school.

E. There shall be alcohol, drug, and substance abuse counselors who regularly visit every secondary school and elementary school at a maximum ratio of four schools to one counselor, for the purpose of counseling students who have been identified as having an alcohol, drug, or substance abuse problem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:15, R.S. 17:28, R.S. 17:29, R.S. 17:54, R.S. 17:81, R.S. 17:84.2, R.S. 17:228, R.S. 17:403, R.S. 17:1947(F); Title 34, Sect. 1068; Fed. Reg. 7CFR 210.3(a).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:

##### §505. Certification of Personnel

A. To be eligible legally for teaching, administrative, supervisory, or other professional services in the public schools of Louisiana, personnel shall hold a valid Louisiana certificate appropriate to the services rendered or shall receive annual approval in accordance with provisions allowed by BESE.

NOTE: Refer to Bulletin 746—Louisiana Standards for State Certification of School Personnel.

##### B. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:7.1; R.S. 17:24.10; R.S. 17:81; R.S. 17:491; 17:497.2; R.S. 17:1974.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:

#### Chapter 11. Student Services

##### §1107. Entrance Requirements

A.1. All students, upon entering Louisiana schools for the first time, shall present:

- a. an official birth certificate (Children born in Louisiana will be given a 15 day grace period to secure a copy of their birth record. Children born out of this state will be given 30 days' grace in which to produce a copy of their birth record);
- b. a record of immunization; and
- c. an official Social Security card. If no Social Security is available, the student shall be assigned a state identification number.

2. In cases where birth certificates and/or birth verification forms cannot be obtained, the school principal may accept whatever positive proof of age, race, and parentage is available. It shall be left to the discretion of the parish or city superintendent of schools, subject to the authority of the school board, as to whether or not a child shall continue in school upon failure to comply herewith.

##### B. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151.3; 17:170; 17:222.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1274 (June 2005), amended LR 33:

##### §1109. Assignment and Transfer of Students

A. LEAs may, by mutual agreement, provide for the admission to any school of students residing in adjoining parishes and for transfer of school funds or other payments by one board to another for, or on account of, such attendance.

B. If not specifically contrary to the provisions of an order of a court of competent jurisdiction providing for the assignment of students within the LEA, a city or parish school board shall assign a student to attend any public school requested by a parent or other person responsible for the student's school attendance when the requested school has space available and is of a suitable grade level, and the child resides not more than one mile from such school measured by the distance to be traveled on public streets or

highways, or by the boundary of a subdivision. Exceptions are as follows.

1. This provision does not apply in Orleans Parish.
2. If not specifically contrary to the provisions of an order of a court of competent jurisdiction providing for the assignment of students within the LEA, a city or parish school board in any parish having a population of at least 140,000 but not more than 160,000 persons and the Caddo Parish School Board, shall assign a student to attend any public high school requested by a parent or other person responsible for the student's school attendance when the requested school has space available and is of a suitable grade level, and the student resides not more than 2 miles from such school. A school board shall not be required to provide transportation to any student enrolled in high school pursuant to the provisions of this Paragraph.

NOTE: Refer to §303.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:105; R.S. 17:221.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1274 (June 2005), amended LR 33:

### Chapter 23. Curriculum and Instruction

#### §2305. Ancillary Areas of Instruction

A. - F.3. ...

G. Each school shall hold an educational program pertaining to the United States Constitution on Constitution Day, September 17, of each year. The purpose of the program is to commemorate the September 17, 1787 signing of the Constitution. When September 17<sup>th</sup> falls on a Saturday, Sunday, or holiday, the Constitution Day program shall be held during the preceding or following week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154; R.S. 17:261 et seq.; R.S. 17:281 et seq.; R.S. 17:405 et seq; 36 USCS §106.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 33:

#### §2313. Elementary Program of Studies

A. ...

B. Schools and LEAs providing prekindergarten programs shall offer a curriculum that is developmentally appropriate and informal in nature.

NOTE: Refer to *Bulletin 105—Louisiana Standards for Serving Four-Year-Old Children*.

1. The following suggested minimum time requirements for prekindergarten shall be flexibly scheduled to meet the developmental needs of young students. Because transition times are teacher-directed, they shall be included as teacher-directed activities.

Teacher directed activities (whole and small group)	25%-35%
Student-initiated activities (learning center)	35%-45%
Lunch	
Snack and restroom time	10%
Rest period	20%

B.2 - F.7.a ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:17.1; R.S. 17: 24.8; R.S. 17:154-154.1; R.S. 17:261 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005), amended LR 33:

#### §2319. High School Graduation Requirements

A. - E. ...

F. High School Area of Concentration

1. All high schools shall provide students the opportunity to complete an area of concentration with an academic focus and/or a career focus.

a. To complete an academic area of concentration, students shall meet the current course requirements for the Tuition Opportunity Program for Students (TOPS) Opportunity Award plus one additional Carnegie unit in mathematics, science, or social studies.

b. To complete a career Area of Concentration, students shall meet the minimum requirements for graduation including four elective primary credits in the Area of Concentration and two related elective credits, including one computer/technology course. Areas of Concentration are identified in the Career Options Reporting System with each LEA designating the Career and Technical Education Areas of Concentration offered in their school system each year. The following computer/technology courses can be used to meet this requirement.

Course	Credit
Computer/Technology Literacy	1
Computer Applications or Business Computer Applications	1
Computer Architecture	1
Computer Science I, II	1 each
Computer Systems and Networking I, II	1 each
Desktop Publishing	1
Digital Graphics & Animation	1/2
Multimedia Presentations	1/2 or 1
Web Mastering or Web Design	1/2
Independent Study in Technology Applications	1
Word Processing	1
Telecommunications	1/2
Introduction to Business Computer Applications	1
Technology Education Computer Applications	1
Advanced Technical Drafting	1
Computer Electronics I, II	1 each
Database Programming with PL/SQL	1
Java Programming	1
Database Design and Programming	1/2
Digital Media I/II	1 each

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:183.2; R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:240 (February 2006), amended LR 33:

#### §2355. Music

A. The music course offerings shall be as follows.

Course Title(s)	Units
Applied Music	1
Beginning Band	1
Beginning Choir	1
Sectional Rehearsal	1
Studio Piano I, II, III	1 each
Studio Strings I, II, III	1 each
Advanced Band	1
Advanced Choir	1
Advanced Orchestra	1
Small Vocal Ensemble	1
Wind Ensemble	1
Jazz Ensemble	1
Talented Music I, II, III, IV	1 each

B. Advanced Choir, Advanced Band, Advanced Orchestra, Small Vocal Ensemble, Wind Ensemble, Applied

Music, Jazz Ensemble, and Studio Piano III are performance classes with new literature each year; they may be repeated more than once.

C. Approval by DOE is required before private piano and studio strings instruction can be given for credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 31:3069 (December 2005), LR 33:

#### Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., September 8, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

##### RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Policy Revisions

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

•The implementation of changes requires no cost or savings to state or local governmental units.

•The revision to §2313 adjusts the recommended instructional schedule for prekindergarten.

•Paragraphs A and B of §1109 were deleted because the state statute on which they were based was repealed. These paragraphs dealt with the assignment and transfer of students.

•The revision to §1107 indicates the procedure used for students who register without presenting a Social Security card.

•The revision to §503 adds business manager to the list of certified personnel a district is required to hire. This addition was required by a new state statute.

•§2305 requires schools to have an educational program commemorating Constitution Day. This addition to policy is based on federal law.

•The revisions to §505, §2355, and §2319 correct minor errors in the policies.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to schools or school districts.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
0707#032

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

#### NOTICE OF INTENT

##### Board of Elementary and Secondary Education

##### Bulletin 746—Louisiana Standards for State Certification of School Personnel—Out-of-Field Authorization to Teach (LAC 28:CXXXI.325)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, §325, Out-of-Field Authorization to Teach (OFAT). This change in policy will allow an individual to renew an Out-of-Field Authority to Teach (OFAT) by attempting the required PRAXIS exam(s) for add-on certification in the area of the OFAT at least once per year. The current policy requires that an individual would, for renewal of an OFAT certificate, have to complete all PRAXIS exam(s) required for add-on certification twice per year. The results would be that an individual may have to attempt three exams per year instead of six exams per year.

#### Title 28 EDUCATION

##### Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

##### Chapter 3. Teaching Authorizations and Certifications

##### Subchapter B. Nonstandard Teaching Authorizations §325. Out-of-Field Authorization to Teach (OFAT)

A. - B. ...

C. Renewal Requirements: Teacher must successfully complete one of the following:

1. six semester hours per year in the area(s) that he/she is teaching;

2. the Praxis exam(s) required for certification in the area(s) that he/she is teaching. Under this stipulation, the exam(s) must be attempted at least once per year.

NOTE: The coursework and Praxis exam(s) required for certification will be per official evaluation provided by the Division of Teacher Certification and Higher Education.

D. - D.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1804 (October 2006), amended LR 33:

### Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., September 8, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 746—Louisiana Standards for State Certification of School Personnel Out-of-Field Authorization to Teach**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
This change in policy will allow an individual to renew an Out-of-Field Authority to Teach (OFAT) by attempting the required PRAXIS exam(s) for add-on certification in the area of the OFAT at least once per year. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
0707#039

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—PRAXIS I Scores (LAC 28:CXXXI.241)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §241. PRAXIS I SCORES. This policy specifies Principles of Learning and Teaching (PLT): Early Childhood (0521) as the required PRAXIS exam for certification in PK-3 and Early Interventionist certification. In Fall 2007, Educational Testing Service (ETS) will discontinue the current Early Childhood Education exam (#0020) required for Louisiana licensure in Grades PK-3 and in Early Interventionist Birth to Five Years.

#### Title 28

#### EDUCATION

**Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel**  
**Chapter 2. Louisiana Teacher Preparation Programs**  
**Subchapter B. Alternate Teacher Preparation Programs**  
**§241. PRAXIS I SCORES**

A. - A.3. ...

B. Content and Pedagogy Requirements

Certification Area	Name of Praxis Test	Content Exam Score	Pedagogy: Principles of Learning & Teaching		
			PLT K-6 (#0522)	PLT 5-9 (#0523)	PLT 7-12 (#0524)
Early Childhood PK-3	Elementary Content Knowledge (0014)	Prior to 5/31/04	Prior to 6/1/04: PLT K-6 or ECE 0020;		
		Effective 6/1/04	After 5/31/04: Early Childhood Education 0020 (Score 510); After 12/31/07 Principles of Learning & Teaching 0521 (Score 172)		
Grades 1-5	Elementary Content Knowledge (0014)	Prior to 5/31/04	161	---	---
		Effective 6/1/04	150	---	---
Grades 4-8 Generic	Middle School: Content Knowledge (0146)	150	---	154	---
Grades 4-8 Mathematics	Middle School Mathematics (0069)	148	---	154	---
Grades 4-8 Science	Middle School Science (0439)	140 145 150	---	154	---
Grades 4-8 Social Studies	Middle School Social Studies (0089)	149	---	154	---
Grades 4-8 English/Language Arts	Middle School English/Language Arts (0049)	160	---	154	---

C. - C.2. ...

D. Special Education Areas

Area	Content Exam	Score	Pedagogy Requirement	Score	
All Special Education Area(s)			Prior to 6/1/04: PLT K-6 (161), PLT 5-9 (154) or PLT 7-12 (161)		
Early Interventionist	Elementary Education: Content Knowledge (0014)	Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) Effective 6/1/04	143
				Educ. of Exceptional Students: Core Content Knowledge (0353) & Early Childhood Education (0020) Effective 7/1/05	143 510
Hearing Impaired	Elementary Education: Content Knowledge (0014)	Effective 7/1/05	150	Principles of Learning & Teaching: Early Childhood (0521) Effective 1/1/08	172
				Educ. of Exceptional Students: Core Content Knowledge (0353) & Educ. of Deaf and Hard of Hearing Students (0271) Effective 6/1/04	143 160
Mild to Moderate Disabilities	Effective 6/1/04 ALL Candidates must pass a content area exam appropriate to certification level 1-5, 4-8, 6-12 (e.g., 0014, or core subject-specific exams for middle or secondary grades)			*Educ. of Exceptional Students: Core Content Knowledge (0353) & Educ. of Exceptional Students: Mild/Moderate Disabilities (0542) Effective 6/1/04	143 141
				*Note: (0353) and (0542) are not content area exams.	
Significant Disabilities	Elementary Education: Content Knowledge (0014)	Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) & Educ. of Exceptional Students: Severe to Profound Disabilities (0544) Effective 6/1/04	143 147
				Educ. of Exceptional Students: Core Content Knowledge (0353) Effective 6/1/04	143
Visual Impairments/Blind	Elementary Education: Content Knowledge (0014)	Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) Effective 6/1/04	143



E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1836 (October 2006), amended LR 33:

#### Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., September 8, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

##### RULE TITLE: **Bulletin 746—Louisiana Standards for State Certification of School Personnel PRAXIS I Scores**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This policy specifies Principles of Learning and Teaching (PLT): Early Childhood (0521) as the required PRAXIS exam for certification in PK-3 and Early Interventionist certification. The passing score required for this exam will be 172. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
0707#037

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

#### NOTICE OF INTENT

##### Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—VTIE, CTTIE, and CTTIE-1 Certificates Renewal Guidelines (LAC 28:CXXXI.507)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, §507. VTIE, CTTIE, and CTTIE-1 Certificates Renewal Guidelines. The proposed change will allow individuals with a valid Louisiana teaching certificate to use three years of successful teaching experience in lieu of the mandatory three-hour New Instructor Workshop requirement and thus to renew with only three hours of CTTIE coursework. Current guidelines for renewal of a VTIE, CTTIE, or CTTIE 1 certificate require an individual who holds a bachelor's degree in education to complete a mandatory three-hour New Instructor Workshop plus three additional hours of CTTIE coursework from an approved list of CTTIE coursework. This change will allow these individuals to use three years of successful teaching experience in lieu of the mandatory three-hour course.

#### Title 28

#### EDUCATION

##### Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel Chapter 5. Standards for Secondary Career and Technical Trade and Industrial Education Personnel

##### §507. VTIE, CTTIE, and CTTIE-1 Certificates Renewal Guidelines

A. - A.3. ...

4. with a valid Louisiana teaching certificate (Type A, B, C, Level 1, 2, 3 or OS) and three years of successful teaching experience—three semester hours.

B. The coursework must be completed from the following approved list:

1. New Instructor Workshop (mandatory for all instructors who do not hold a valid Louisiana teaching certificate and do not have three years of successful teaching experience);

B.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1814 (October 2006), amended LR 33:

### Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., September 8, 2007, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel—VTIE, CTTIE, and CTTIE-1 Certificates Renewal Guidelines

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed change will allow individuals with a valid Louisiana teaching certificate to use three years of successful teaching experience in lieu of the mandatory three-hour New Instructor Workshop requirement, and thus to renew with only three hours of CTTIE coursework. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
0707#038

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Environmental Quality Office of the Secretary Legal Affairs Division

Calcasieu Parish Control of Emissions  
(LAC 33:III.510, 603, 605, 607, 613, and 615)(AQ287P)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.510, 603, 605, 607, 613, and 615 (Log #AQ287P).

This rule repeals and deletes references to LAC 33:III.510, which provides for control technology requirements and emission offsets only in Calcasieu Parish. This Section was promulgated in 2001 following violation of the 1-hour ozone standard in Calcasieu Parish and prior to EPA's designations for the 8-hour ozone standard in 2004. The Lake Area Industry Alliance (LAIA) submitted a petition for rulemaking to the department requesting the repeal of LAC 33:III.510. The membership of LAIA consists of 23 major industrial facilities located in the Lake Charles/Calcasieu Parish area. A public notice and comment period was held prior to this rulemaking seeking comment regarding the requested repeal. A public hearing was held in Lake Charles prior to reaching a decision on this action. Overwhelming support for the repeal was expressed during the comment period. This "state-only" rule provision was never submitted to EPA for incorporation into Louisiana's State Implementation Plan for air quality. Based on a review of the relevant air quality information for Calcasieu Parish, the department has determined to proceed with the repeal of LAC 33:III.510. The basis and rationale for this rule are to allow air emission sources in Calcasieu Parish to be subject to the same permitting rules as other parishes in Louisiana that are currently in attainment with the National Ambient Air Quality Standard for the air pollutant ozone.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

### Title 33 ENVIRONMENTAL QUALITY

#### Part III. Air

#### Chapter 5. Permit Procedures

#### §510. New Emissions Sources and Major Modifications in Specified Parishes

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:2234 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), repealed LR 33:

**Chapter 6. Regulations on Control of Emissions through the Use of Emission Reduction Credits Banking**

**§603. Applicability**

A. Major stationary sources are subject to the provisions of this Chapter for the purpose of utilizing emission reductions as offsets in accordance with LAC 33:III.504. Minor stationary sources located in ozone nonattainment areas may submit ERC applications for purposes of banking. Sources located in EPA-designated ozone attainment areas may not participate in the emissions banking program. Any stationary point source at an affected facility is eligible to participate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:874 (August 1994), amended LR 24:2239 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:301 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

**§605. Definitions**

A. ...

\* \* \*

*Offset*—a legally enforceable reduction, approved by the department, in the rate of actual emissions from an existing stationary point source, which is used to compensate for a significant net increase in emissions of NO<sub>x</sub> or VOC from a new or modified stationary source in accordance with the requirements of LAC 33:III.504. To be valid, an *offset* must meet the definition of ERC.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:874 (August 1994), LR 25:1622 (September 1999), LR 26:2448 (November 2000), LR 28:301 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

**§607. Determination of Creditable Emission Reductions**

A. – C.4.a.ii. ...

b. Reserved.

C.5. – D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:302 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1601 (September 2006), LR 33:

**§613. ERC Bank Recordkeeping and Reporting Requirements**

A. - B.2. ...

3. Repealed.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 26:486 (March 2000), LR 26:2449 (November 2000), LR 28:303 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 33:

**§615. Schedule for Submitting Applications**

A. – B. ...

C. Applications for banking emission reductions that are to be made as part of a project that includes an increase in emissions for which the reduction will serve to offset the increase may be submitted as part of the permit application for the proposed increase. Such reductions will be reviewed for applicability as ERCs concurrently with the review of the permit application.

D. The applicant shall speciate VOC according to individual compounds when applying to bank VOC reductions. Speciation of toxic air pollutants regulated in LAC 33:III.Chapter 51 is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:878 (August 1994), amended LR 21:681 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1623 (September 1999), LR 26:486 (March 2000), LR 28:304 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on August 28, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ287P. Such comments must be received no later than September 4, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ287P. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall

Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM  
Executive Counsel

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Calcasieu Parish Control of Emissions

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units as a result of the proposed rule. This proposed rule repeals LAC 33:III.510, which provides for control technology requirements and emission offsets only in Calcasieu Parish. The original basis for imposing those requirements has been removed.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units resulting from the proposed rule.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The repeal of LAC 33:III.510 may enhance the potential for economic growth and development in Calcasieu Parish. Future new projects at industrial facilities in southwestern Louisiana will no longer be hindered by the need for emission offsets. The economic benefits are unquantifiable at this time.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment as a result of the proposed rule.

Herman Robinson, CPM  
Executive Counsel  
0707#018

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Environmental Quality Office of the Secretary Legal Affairs Division

Departmental Designations  
(LAC 33:I, III, V, VI, VII, IX, XI, and XV)(MM002)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Environmental Quality regulations, LAC 33:I, III, V, VI, VII, IX, XI, and XV (Log #MM002). The Sections amended in this Rule are as follows:

LAC 33:I.501, 907, 1109, 1111, 1113, 1117, 1203, 1307, 1505, 1701, 1803, 2005, 2307, 3905, 3917, 3919, 3923, 3925, 4701, 4703, 4705, 4711, 5707, 6905, and 6921;

LAC 33:III.111, 211, 501, 504, 505, 506, 507, 613, 918, 919, 1105, 1107, 1410, 1434, 1507, 2103, 2108, 2113, 2116, 2121, 2122, 2123, 2132, 2153, 2159, 2201, 2301, 2303, 2307, 2511, 2521, 2531, 2701, 2719, 2723, 2735, 2799, 2805, 2807, 2809, 2811, 3003, 5107, 5111, 5113, 5116, 5122, 5151, 5307, 5311, and 5911;

LAC 33:V.105, 109, 303, 309, 321, 323, 501, 520, 537, 565, 590, 708, 1105, 1107, 1109, 1111, 1113, 1123, 1125, 1127, 1199, 1504, 1505, 1513, 1516, 1527, 1529, 1531, 1715, 1737, 1739, 1745, 1747, 1755, 1767, 1802, 1905, 1907, 1913, 2227, 2237, 2239, 2241, 2245, 2246, 2247, 2253, 2271, 2273, 2303, 2306, 2307, 2508, 2521, 2707, 2711, 2719, 2803, 2805, 2903, 2906, 3005, 3007, 3009, 3103, 3115, 3317, 3319, 3321, 3503, 3505, 3513, 3517, 3523, 3525, 3527, 3707, 3711, 3715, 3717, 3719, 3831, 3841, 3853, 3875, 4029, 4043, 4045, 4065, 4083, 4201, 4241, 4301, 4320, 4367, 4373, 4375, 4381, 4383, 4387, 4391, 4393, 4395, 4403, 4407, 4411, 4413, 4437, 4449, 4451, 4462, 4472, 4474, 4489, 4512, 4522, 4534, 4703, and 5309;

LAC 33:VI.103, 117, 201, 303, 403, 501, 502, 505, 507, 509, 515, 521, 607, 705, 709, 711, 801, 803, 911, and 913;

LAC 33:VII.113, 301, 303, 305, 307, 311, 401, 403, 407, 501, 508, 509, 513, 515, 517, 519, 711, 713, 715, 717, 719, 721, 723, 725, 803, 805, 909, 1103, 1301, 1303, 1305, 1403, 1405, 3001, 10307, 10513, 10515, 10517, 10519, 10521, 10523, 10525, 10531, 10533, 10535, and 10536;

LAC 33:IX.301, 303, 307, 309, 311, 315, 708, 905, 1117, 1121, 1507, 2109, 2111, 2115, 2119, 2123, 2125, 2501, 2511, 2515, 2521, 2523, 2525, 2529, 2701, 2703, 2709, 3115, 3117, 4505, 5709, 6113, 6117, 6121, 6123, 6125, 6135, and 6507;

LAC 33:XI.301, 303, 507, 701, 715, 903, 905, 907, 1111, 1113, 1123, 1129, 1131, 1139, 1205, 1209, 1305, and 1309; and

LAC 33:XV.102, 204, 205, 209, 211, 212, 213, 320, 321, 322, 324, 325, 326, 328, 331, 332, 361, 390, 399, 430, 436, 438, 442, 461, 488, 490, 496, 499, 575, 577, 578, 579, 603, 608, 704, 710, 719, 737, 761, 803, 907, 911, 1016, 1017, 1103, 1104, 1303, 1309, 1314, 1325, 1331, 1332, 1333, 1407, 1408, 1410, 1417, 1418, 1420, 1515, 1516, 1707, 1711, 1755, 2014, 2017, 2022, 2506, 2507, and 2508.

This Rule will change references to various DEQ divisions in the regulations to references to the statutory office designations, update some office designations to reflect the current organizational structure of the department, and make miscellaneous format and typographical corrections in the related text. Each division will internally prepare documentation identifying the various reports and other submittals the division may require. This information will be available through the department's website. The names and organizational placement of divisions are sometimes changed during reorganizations within the department, which initiates a need to update the division names in the department's regulations. Changing the departmental regulations through formal rulemaking each time there is a division name change or a change in the organizational placement of a division is an inefficient use of resources. The basis and rationale for this Rule are to decrease the effect that departmental reorganizations have on the regulations.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33**  
**ENVIRONMENTAL QUALITY**

**Part I. Office of the Secretary**

**Subpart I. Departmental Administrative Procedures**

**Chapter 5. Confidential Information Regulations**

**§501. Scope**

A. Department of Environmental Quality information and records obtained under the Louisiana Environmental Quality Act, or by any rule, regulation, order, license, registration, or permit term or condition adopted or issued thereunder, or by any investigation authorized thereby, shall be available to the public, unless confidentiality is requested in writing to the Office of the Secretary and the information or records are determined by the department to require confidentiality.

B. – B.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:342 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2439 (November 2000), LR 30:742 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2432 (October 2005), LR 33:

**Chapter 9. Petition for Rulemaking**

**§907. Content of a Rulemaking Petition**

A. ...

B. The petition shall be addressed to the Office of the Secretary.

C. – E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:297 (March 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2439 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2432 (October 2005), LR 33:

**Chapter 11. Declaratory Rulings**

**§1109. Declaratory Rulings Officer**

A. – B. ...

C. The declaratory rulings officer shall have the authority to regulate all matters concerning a request for declaratory ruling and to issue the declaratory ruling after concurrence as to legal sufficiency by the Office of the Secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:1141 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2440 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2432 (October 2005), LR 33:

**§1111. Duty to Maintain List**

A. The secretary shall maintain, in a place accessible to the public in the Office of the Secretary, a list of all petitions for declaratory rulings and declaratory rulings and an index to the list. The list shall identify the petitioner, the matter to be decided, and when applicable, the location of the activity or facility that is the subject of the petition. The list shall also include the date on which the petition is received, the date the secretary decides whether a declaratory ruling will be issued, the date the secretary sets for issuance of the

ruling, the date the ruling issues, and the date of any request for modification or appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:1141 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2440 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2432 (October 2005), LR 33:

**§1113. Declaratory Rulings Clerk**

A. The administrative authority shall designate a person in the Office of the Secretary to serve as the declaratory rulings clerk, who shall be the official custodian of declaratory rulings records. The clerk shall maintain these records separately from other records of the department.

B. – B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:1142 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2440 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2433 (October 2005), LR 33:

**§1117. Petition Contents and Form**

A. – A.9. ...

B. A petition for declaratory ruling shall be filed with the Office of the Secretary by either of the following methods:

1. personal delivery to the general counsel or the declaratory rulings clerk at department headquarters; or

2. United States Mail as certified mail, return receipt requested to Declaratory Rulings Clerk, Office of the Secretary.

C. – D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:1142 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2440 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2433 (October 2005), LR 33:

**Chapter 12. Requests for Review of Environmental Conditions**

**§1203. Procedure for Submittal of Request**

A. – B.10. ...

C. An applicant shall submit the request for review, in accordance with the requirements of Subsection B of this Section, in triplicate, with the initial minimum fee in Subsection A of this Section, to the administrator of the Office of Environmental Assessment.

D. – E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 20:2001, et seq., and specifically 2011(D)(25).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:447 (March 2007), amended LR 33:

**Chapter 13. Risk Evaluation/Corrective Action Program**

**§1307. Adoption by Reference**

A. The document entitled, "Louisiana Department of Environmental Quality Risk Evaluation/Corrective Action Program (RECAP)," dated October 20, 2003, is hereby adopted and incorporated herein in its entirety. The RECAP

document is available for purchase or inspection from 8 a.m. until 4:30 p.m., Monday through Friday, from the Office of the Secretary. For RECAP document availability at other locations, contact the department's Regulation Development Section. The RECAP document may also be reviewed on the Internet through the department's website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:2244 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264 (June 2000), LR 26:2441 (November 2000), LR 29:2057 (October 2003), amended by the Office of Environmental Assessment, LR 30:2020 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2433 (October 2005), LR 33:

#### **Chapter 15. Permit Review**

##### **§1505. Review of Permit Applications for New Facilities and Substantial Permit Modifications**

A. – A.4. ...

5. Within 30 days after receipt of a letter of administrative completeness, the applicant shall publish a notice, provided by the department, of the administrative completeness determination in a major local newspaper of general circulation and submit proof of publication to the Office of Environmental Services.

A.6. – E. ...

F. Withdrawal of Permit Application

1. An applicant may voluntarily withdraw an application during the review process, without prejudice, provided notice of withdrawal is submitted to the Office of Environmental Services in writing with the appropriate signatory authority, and:

1.a. – 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:487 (April 1993), repromulgated LR 19:742 (June 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2441 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2433 (October 2005), LR 33:

#### **Chapter 17. Permit Qualifications and Requirements**

##### **§1701. Requirements for Obtaining a Permit**

A. – B.2. ...

C. The applicant shall provide to the Office of Environmental Services a list of the state(s) where he or she has federal or state environmental permits identical to, or of a similar nature to, the permit for which application is being made. This information shall be provided for all individuals, partnerships, corporations, or other entities who own a controlling interest (50 percent or more) in the company or who participate in the environmental management of the facility for an entity applying for a permit or an ownership interest.

D. In addition to providing the information required in Subsection C of this Section, the applicant shall submit a written statement to the Office of Environmental Services as part of the permit application, to certify that:

D.1. – E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2441 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2433 (October 2005), LR 33:

#### **Chapter 18. Expedited Permit Processing Program §1803. Procedures**

A. Requests for expedited permit processing shall be submitted using the approved form. The approved form is available on the official website for the department. Hard copies may be obtained from the Office of Environmental Services.

B. – D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1014 (June 2007), amended LR 33:

#### **Chapter 20. Records of Decision for Judicial Review §2005. Responsibility for Assembly of Record of Decision**

A. When the department is served with notice of an appeal or other request for judicial review, such notice shall be immediately forwarded to the Office of the Secretary, which shall be responsible for assembling a complete and legible copy of the record of decision and transmitting it to the court.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2050.20.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:858 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2441 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2433 (October 2005), LR 33:

#### **Chapter 23. Procedures for Public Record Requests §2307. Exceptions to Standard Operating Procedures**

A. – B.1.a. ...

b. If payment is not received within 10 working days, the requester's name will appear on an accounts receivable past due report maintained by the Office of Management and Finance.

1.c. – 2.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 29:702 (May 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

##### **Subpart 2. Notification**

#### **Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges**

##### **Subchapter A. General**

##### **§3905. Definitions**

A. ...

\*\*\*

SPOC—Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC).

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

### **Subchapter C. Requirements for Prompt Notification**

#### **§3917. Notification Requirements for Unauthorized Discharges That Do Not Cause an Emergency Condition**

A. In the event of an unauthorized discharge that exceeds a reportable quantity specified in Subchapter E of this Chapter but that does not cause an emergency condition, the discharger shall promptly notify the department within 24 hours after learning of the discharge. Notification should be made to SPOC in accordance with LAC 33:I.3923.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), repromulgated LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), repromulgated LR 27:38 (January 2001), amended LR 30:1668 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:

#### **§3919. Notification Requirements for Unauthorized Discharges with Groundwater Contamination Impact**

A. In the event that any unauthorized discharge results in the contamination of the groundwaters of the state or otherwise moves in, into, within, or on any saturated subsurface strata, the discharger shall promptly notify SPOC in accordance with LAC 33:I.3923.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2076(D), 2183(I), and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), repealed LR 19:1022 (August 1993), repromulgated and amended LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), LR 30:1668 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:

### **Subchapter D. Notification Procedures**

#### **§3923. Prompt Notification Procedures**

A. Prompt notification shall be provided within a time frame not to exceed 24 hours and shall be given to SPOC, as follows:

A.1. – C.7.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1668 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:

#### **§3925. Written Notification Procedures**

A. Written reports for any unauthorized discharge that requires notification under LAC 33:I.3915.A, 3917, or 3919 shall be submitted by the discharger to SPOC in accordance with this Section within seven calendar days after the notification required by LAC 33:I.3915.A, 3917, or 3919, unless otherwise provided for in a valid permit or other department regulation.

A.1. – B.16. ...

C. Written notification reports shall be submitted to SPOC by mail or fax. The transmittal envelope and report or fax cover page and report should be clearly marked "UNAUTHORIZED DISCHARGE NOTIFICATION REPORT."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), LR 30:1669 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:

### **Subpart 3. Laboratory Accreditation**

#### **Chapter 47. Program Requirements**

##### **§4701. Accreditation Process**

A. The department accreditation process comprises four basic steps:

1. the submittal to the Office of Environmental Assessment of a written request from the laboratory in the form of an application provided by the department, along with payment of all applicable fees;

A.2. – B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1435 (July 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:

##### **§4703. Application for Accreditation**

A. ...

B. An application for environmental laboratory accreditation shall be made in writing to the Office of Environmental Assessment. This application shall provide all requested information and be accompanied by the appropriate application fee. Information will include at least one satisfactory round of the most recent department-specified proficiency evaluation test results or an analytical data package for test categories where no accessible proficiency tests exist. Supplemental information may be required.

C. – E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1435 (July 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:

**§4705. Categories of Accreditation**

A. At the time of application each applicant must clearly identify both the fields of testing and the test categories for which accreditation is sought. A copy of the relevant test method documentation and the requisite equipment for the method must be available at the laboratory. A current list of approved methodologies for each parameter/analyte will be maintained by the Office of Environmental Assessment, and a copy of the list will become a part of the application package. In cases where the methodology used by the laboratory is not listed, the laboratory shall submit documentation that will verify that the results obtained from the method in use are equal to or better than those results obtained from the approved methodology. The department will review the data submitted by the laboratory and will notify the laboratory in writing within 60 calendar days if the method is acceptable or unacceptable as an alternate method of analysis.

B. – B.11. ...

C. An accredited laboratory may request the addition of field(s) of testing and test category(ies) to its scope of accreditation at any time. Such a request must be submitted in writing to the Office of Environmental Assessment. Unless the previous on-site inspection can verify the competence of the laboratory to perform the additional tests, another on-site inspection may be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1435 (July 2000), LR 26:2443 (November 2000), repromulgated LR 27:38 (January 2001), amended by the Office of Environmental Assessment, LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005), LR 33:

**§4711. Proficiency Testing Participation**

A. – E. ...

F. Each participating laboratory shall authorize the proficiency test provider to release the results of the proficiency evaluation (PE) test to the Office of Environmental Assessment at the same time that they are submitted to the laboratory. Every laboratory that receives test results that are "unacceptable" for a specific analyte must investigate and identify likely causes for these results, resolve any problems, and report such activity to the Office of Environmental Assessment, along with the submittal of corrective action proficiency sample test results. The laboratory shall report only the analytes for which corrective action was required.

G. – J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:921 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005), LR 33:

**Chapter 57. Maintenance of Accreditation**

**§5707. Changes in Laboratory Operation**

A. Changes in laboratory name, ownership, location, personnel, facilities, methodology, or any factors significantly affecting the performance of analyses for which

the laboratory was originally accredited shall be reported to the Office of Environmental Assessment within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:933 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005), LR 33:

**Subpart 4. Emergency Response Regulations**

**Chapter 69. Emergency Response Regulations**

**§6905. Definitions**

A. ...

\*\*\*

SPOC—Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC).

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), (14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:977 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

**§6921. Reporting Requirements**

A. No later than 30 days after material from the cleanup and/or abatement of an off-site emergency condition is removed from an emergency response storage facility, the owner or operator of the facility shall submit a written report detailing the ultimate disposition of the material, by mail or fax to SPOC. The report shall be clearly marked "WASTE DISPOSITION REPORT." The report shall reference the department-issued incident number. Other information in the report may include location and date of the emergency incident, name and address of the company transporting the pollutant that resulted from the emergency incident, name and location of the facility where the pollutant is/was stored, and name and location of the facility accepting the pollutant for disposal, recycling, or reuse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), (14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:979 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005), LR 33:

**Part III. Air**

**Chapter 1. General Provisions**

**§111. Definitions**

A. When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below.

\*\*\*

SPOC—Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC).

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy,



Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:777 (August 1991), LR 21:1081 (October 1995), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:808 (May 2006), LR 32:1599 (September 2006), LR 33:

## **Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs**

### **§211. Methodology**

A. – B.9. ...

10. When a permanent shutdown occurs and a company properly notifies the Office of Environmental Services by official change in the Emission Inventory Questionnaire (EIQ) and permit, then the maintenance fee would be dropped for that shutdown portion of the process/plant. This fee reduction or cancellation shall apply only in the fiscal years in which the shutdown portion of the plant or process did not operate at all. The EIQ and permit shall also need to be changed to delete the emissions from the shutdown portion of the plant or process before the start of the fiscal year in which the fee would have been charged.

11. – 15.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:611 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), LR 18:706 (July 1992), LR 19:1419 (November 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:264 (February 2000), LR 26:2444 (November 2000), LR 29:2776 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005), LR 33:

## **Chapter 5. Permit Procedures**

### **§501. Scope and Applicability**

A. – B.7. ...

C. Scope

1. For each source to which this Chapter applies, the owner or operator shall submit a timely and complete permit application to the Office of Environmental Services as required in accordance with the procedures delineated herein. Permit applications shall be submitted prior to construction, reconstruction, or modification unless otherwise provided in this Chapter.

2. – 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of

the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:1842 (October 2006), LR 33:

### **§504. Nonattainment New Source Review Procedures**

A. – B.5. ...

C. Source Information. The owner or operator of a proposed major stationary source or major modification shall submit all information necessary to the Office of Environmental Services in order to perform any analysis or make any determination required under this regulation. Information shall include, but is not limited to:

C.1. – F.6. ...

7. The owner or operator desiring to utilize emission reductions as an offset shall submit to the Office of Environmental Services the following information:

C.7.a. – M.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 31:3123, 3155 (December 2005), LR 32:1599 (September 2006), LR 33:

### **§505. Acid Rain Program Permitting Requirements**

A. ...

B. Copies of documents incorporated by reference in this Section may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html); from the Department of Environmental Quality, Office of Environmental Services; or from a public library.

C. Modifications or Exceptions. A copy of each report or notice or of any other documentation required by the referenced regulations (i.e., 40 CFR Part 72) to be provided to "the Administrator" shall be provided to the Office of Environmental Services by the person required to make the submission to "the Administrator."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 21:678 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2446 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2429, 2436 (October 2005), LR 32:1598 (September 2006), LR 33:

### **§506. Clean Air Interstate Rule Requirements**

A. – C. ...

D. Copies of documents incorporated by reference in this Section may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html); from the Department of

Environmental Quality, Office of Environmental Services; or from a public library.

E. Modifications or Exceptions. A copy of each report or notice or of any other documentation required by the referenced regulations (i.e., 40 CFR Part 96) to be provided to "the Administrator" shall be provided to the Office of Environmental Services by the person required to make the submission to "the Administrator."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:1597 (September 2006), amended LR 33:

### **§507. Part 70 Operating Permits Program**

A. – C.2. ...

3. Newly Regulated Sources. The owner or operator of any source that becomes subject to the requirements of this Section after the effective date of the Louisiana Part 70 program due to regulations promulgated by the administrator or by the Department of Environmental Quality shall submit an application to the Office of Environmental Services in accordance with the requirements established by the applicable regulation. In no case shall the required application be submitted later than one year from the date on which the source first becomes subject to this Section.

D. – H.3. ...

4. a requirement for progress reports to be submitted to the Office of Environmental Compliance at least semiannually, or at a more frequent period if specified in the applicable requirement. Such progress reports shall contain the following:

4.a. – 5.c.v. ...

d. a requirement that all compliance certifications be submitted to the administrator as well as to the Office of Environmental Compliance; and

H.5.e. – J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:

### **Chapter 6. Regulations on Control of Emissions through the Use of Emission Reduction Credits Banking**

#### **§613. ERC Bank Recordkeeping and Reporting Requirements**

A. – B.1. ...

2. An annual report summarizing all records required by Subsection A of this Section shall be submitted to the department by March 31 of each year. This submittal shall be certified as specified in Subsection C of this Section and submitted to the Office of Environmental Services in a format specified by the department.

B.3. – C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 26:486 (March 2000), LR 26:2449 (November 2000), LR 28:303 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 33:

### **Chapter 9. General Regulations on Control of Emissions and Emission Standards**

#### **§918. Recordkeeping and Annual Reporting**

A. Data for emissions reports shall be collected annually. These reports are to be submitted to the Office of Environmental Assessment by March 31 of each year (for the period January 1 to December 31 of the previous year) unless otherwise directed by the department. The report shall include all data applicable to the emissions source or sources as required under LAC 33:III.919.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:339 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2450 (November 2000), LR 29:2776 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:

#### **§919. Emissions Inventory**

Emissions inventory data shall be submitted to the department on magnetic media in the format specified by the Office of Environmental Assessment. *Facilities* are defined as all emissions points under common control on contiguous property. *Emissions point* is defined as the source of emissions that should have a Source Classification Code (SCC). Detailed instructions are provided, on an annual basis, for completing and submitting emissions inventories. The state point source emissions inventory will be compiled from the emissions inventories submitted in accordance with this Section from the facilities that meet the criteria for applicability in Subsection A of this Section. The state area source, non-road and on-road mobile source, and biogenic emissions inventories are compiled by the department from data that may be requested from other federal, state, or local agencies or other private entities.

A. Applicability. The owner or operator of the following facilities shall submit annual emissions inventories to the Office of Environmental Assessment. The inventory shall include all air pollutants for which a National Ambient Air Quality Standard (NAAQS) has been issued and all NAAQS precursor pollutants.

A.1. – F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:184 (February 1993), repromulgated LR 19:485 (April 1993), amended LR 19:1418 (November 1993), LR 20:1101 (October 1994), LR 22:339 (May 1996), amended by the Office of Environmental Assessment,

Environmental Planning Division, LR 26:2450 (November 2000), LR 29:2776 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 32:241 (February 2006), LR 33:

## **Chapter 11. Control of Emissions of Smoke**

### **§1105. Smoke from Flaring Shall Not Exceed 20 Percent Opacity**

A. The emission of smoke from a flare or other similar device used for burning in connection with pressure valve releases for control over process upsets shall be controlled so that the shade or appearance of the emission does not exceed 20 percent opacity (LAC 33:III.1503.D.2, Table 4) for a combined total of six hours in any 10 consecutive days. If it appears the emergency cannot be controlled in six hours, SPOC shall be notified by the emitter in accordance with LAC 33:I.3923 as soon as possible after the start of the upset period. Such notification does not imply the administrative authority will automatically grant an exemption to the source(s) of excessive emissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 25:656 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2450 (November 2000), LR 30:1671 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:

### **§1107. Exemptions**

A. Exemptions from the provisions of LAC 33:III.1105 may be granted by the administrative authority during start-up and shutdown periods if the flaring was not the result of failure to maintain or repair equipment. A report in writing, explaining the conditions and duration of the start-up or shutdown and listing the steps necessary to remedy, prevent, and limit the excess emission, shall be submitted to SPOC within seven calendar days of the occurrence. In addition, the flaring must be minimized and no ambient air quality standard may be jeopardized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:

## **Chapter 14. Conformity**

### **Subchapter A. Determining Conformity of General Federal Actions to State or Federal Implementation Plans**

#### **§1410. Criteria for Determining Conformity of General Federal Actions**

A. – A.5.a. ...  
i. the total of direct and indirect emissions from the action (or portion thereof) is determined and documented by the department to result in a level of emissions that, together with all other emissions in the nonattainment or maintenance area, would not exceed the emissions budgets specified in the applicable SIP. As a matter of policy, should the department make such determination or commitment, the

federal agency must provide to the Office of Environmental Assessment information on all known projects or other actions that may affect air quality or emissions in any area to which this rule is applicable, regardless of whether such project or action is determined to be subject to this rule under LAC 33:III.1405. The department may charge the federal agency requesting such determination a reasonable fee based on the number of manhours required to perform and document the determination; or

A.5.a.ii. – D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1274 (November 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:

### **Subchapter B. Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved under Title 23 U.S.C. or the Federal Transit Act**

#### **§1434. Consultation**

A. – B.6.a. ...

b. *DEQ*—secretary of the Department of Environmental Quality, or designee;

c. *DOTD*—assistant secretary of the Office of Planning and Programming, or designee;

B.6.d. – E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repromulgated LR 24:1280 (July 1998), amended LR 24:1684 (September 1998), repromulgated LR 24:1925 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

## **Chapter 15. Emission Standards for Sulfur Dioxide**

### **§1507. Exceptions**

A. – A.1. ...

a. A written report explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emissions shall be submitted to SPOC within seven calendar days of the occurrence.

A.1.b. – B.1. ...

a. A written report explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emissions shall be submitted to SPOC within seven calendar days of the occurrence.

B.1.b. – C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:375 (April 1992), LR 23:1678 (December 1997), LR 24:1284 (July 1998),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005), LR 33:1011 (June 2007), LR 33:

## **Chapter 21. Control of Emission of Organic Compounds**

### **Subchapter A. General**

#### **§2103. Storage of Volatile Organic Compounds**

A. – D.4. ...

a. Controls for non-slotted guide poles and stilling wells shall include pole wiper and gasketing between the well and sliding cover. Controls for slotted guide poles shall include a float with wiper, pole wiper, and gasketing between the well and sliding cover. The description of the method of control and supporting calculations based upon the Addendum to American Petroleum Institute Publication Number 2517, *Evaporative Loss from External Floating Roof Tanks*, (dated May 1994) shall be submitted to the Office of Environmental Assessment for approval prior to installation.

D.4.b. – J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 15:1065 (December 1989), repromulgated LR 16:27 (January 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:360 (April 1991), LR 18:1121 (October 1992), LR 20:1376 (December 1994), LR 21:1223 (November 1995), repromulgated LR 21:1333 (December 1995), amended LR 22:453 (June 1996), LR 22:1212 (December 1996), LR 24:20 (January 1998), LR 24:2242 (December 1998), LR 25:657 (April 1999), LR 25:852 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), LR 28:1763 (August 2002), LR 30:1671 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005), LR 33:447 (March 2007), LR 33:

#### **§2108. Marine Vapor Recovery**

A. – E.5. ...

F. Reporting and Recordkeeping

1. The results of any testing done in accordance with LAC 33:III.2108.E shall be reported to the Office of Environmental Assessment within 45 days of the test.

F.2. – H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 14:704 (October 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:20 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), LR 30:745 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005), LR 33:

#### **§2113. Housekeeping**

A. – A.3. ...

4. Each facility shall develop a written plan for housekeeping and maintenance that places emphasis on the prevention or reduction of volatile organic compound emissions from the facility. This plan shall be submitted to the Office of Environmental Services upon request. A copy

shall be kept at the facility, if practical, or at an alternate site approved by the department.

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:118 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:361 (April 1991), LR 25:852 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005), LR 33:

#### **§2116. Glycol Dehydrators**

A. – F.4.b. ...

G. Reporting Requirements

1. The owner or operator of a facility shall submit to the Office of Environmental Services a permit application after installation of controls unless exempt from permitting pursuant to LAC 33:III.Chapter 5.

2. If no permit is required pursuant to LAC 33:III.Chapter 5, the owner or operator of a facility shall submit to the Office of Environmental Services a new or updated emission inventory questionnaire after installation of controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1107 (October 1994), repromulgated, LR 20:1279 (November 1994), amended LR 21:941 (September 1995), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:

#### **§2121. Fugitive Emission Control**

A. – E.3. ...

F. Reporting Requirements. The operator of the affected facility shall submit to the Office of Environmental Assessment a report semiannually containing the information below for each calendar quarter during the reporting period. The reports are due by the last day of the month (January and July) following the monitoring period or by a date approved by the department. The reports shall include the following information for each quarter of the reporting period:

F.1. – G.Liquid Service. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 17:654 (July 1991), LR 21:1330 (December 1995), LR 22:1128 (November 1996), LR 22:1212 (December 1996), LR 24:22 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1433 (July 2000), LR 26:2452 (November 2000), LR 30:1659 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:

#### **§2122. Fugitive Emission Control for Ozone**

##### **Nonattainment Areas and Specified Parishes**

A. – F.3. ...

G. Reporting Requirements. The operator of the affected facility shall submit a report semiannually to the Office of Environmental Assessment containing the information below for each calendar quarter during the reporting period. The reports are due by the last day of the month (January and July) following the monitoring period or by a date approved by the department. The reports shall include the following information for each quarter of the reporting period:

1. – 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1102 (October 1994), repromulgated LR 20:1279 (November 1994), amended LR 22:1129 (November 1996), LR 22:1212 (December 1996), repromulgated LR 23:197 (February 1997), amended LR 23:1678 (December 1997), LR 24:22 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 28:1764 (August 2002), LR 30:1660 (August 2004), repromulgated by the Office of Environmental Assessment, LR 30:2030 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:

### **Subchapter B. Organic Solvents**

#### **§2123. Organic Solvents**

A. – C. Table. ...

D. Control Techniques

1. If add-on controls such as incinerators or vapor recovery systems are used to comply with the emission limitation requirements, in terms of pounds per gallon of solids as applied (determined in accordance with Paragraph D.8 of this Section), the volatile organic compound capture and abatement system shall be at least 80 percent efficient overall. All surface coating facilities shall submit to the Office of Environmental Services, for approval, design data for each capture system and emission control device that is proposed for use. The effectiveness of the capture system (i.e., capture efficiency) shall be determined using the procedure specified in Paragraph E.6 of this Section.

D.2. – H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:23 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1240 (July 1999), LR 26:2453 (November 2000), LR 28:1765 (August 2002), LR 30:746 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:

### **Subchapter F. Gasoline Handling**

#### **§2132. Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities**

A. – B.5. ...

6. The regulated facility shall submit the following application information to the Office of Environmental Compliance prior to installation of the Stage II Vapor Recovery System:

6.a. – 7. ...

8. Upon request by the Department of Environmental Quality, the owner or operator of a facility that claims to be exempt from the requirements of this Section shall submit supporting records to the Office of Environmental Compliance within 30 calendar days from the date of the request. The Department of Environmental Quality shall make a final determination regarding the exemption status of a facility.

C. – C.2. ...

D. Testing

1. The owner/operator of the facility shall have the installed vapor recovery equipment tested prior to the start-up of the facility. The owner or operator shall notify the Office of Environmental Compliance at least five calendar days in advance of the scheduled date of testing. Testing must be performed by a contractor that is certified with the Department of Environmental Quality. Compliance with the emission specification for Stage II equipment shall be demonstrated by passing the following required tests or equivalent for each type of system:

1.a. – 2. ...

3. The department reserves the right to confirm the results of the aforementioned testing at its discretion and at any time. Within 30 days after installation or major system modification of a vapor recovery system, the owner or operator of the facility shall submit to the Office of Environmental Compliance the date of completion of the installation or major system modification of a vapor recovery system and the results of all functional testing requirements.

E. – I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:1254 (November 1992), repromulgated LR 19:46 (January 1993), amended LR 23:1682 (December 1997), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 29:558 (April 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:

### **Subchapter M. Limiting Volatile Organic Compound (VOC) Emissions From Industrial Wastewater**

#### **§2153. Limiting VOC Emissions from Industrial Wastewater**

A. – G.4.a. ...

b. in order to maintain exemption status under this Subsection, the owner or operator shall submit an annual report no later than March 31 of each year, starting in 1997, to the Office of Environmental Assessment that demonstrates that the overall control of VOC emissions at the affected source category from which wastewater is generated during the preceding calendar year is at least 90 percent less than the 1990 baseline emissions inventory. At a minimum, the report shall include the EPN; the PIN; the throughput of wastewater from affected source categories; a plot plan showing the location, EPN, and PIN associated with a wastewater storage, handling, transfer, or treatment facility; and the VOC emission rates for the preceding calendar year. The emission rates for the preceding calendar

year shall be calculated in a manner consistent with the 1990 baseline emissions inventory; and

c. all representations in initial control plans and annual reports become enforceable conditions. It shall be unlawful for any person to vary from such representations if the variation will cause a change in the identity of the specific emission sources being controlled or the method of control of emissions, unless the owner or operator of the wastewater component submits a revised control plan to the Office of Environmental Assessment within 30 days of the change. All control plans and reports shall include documentation that the overall reduction of VOC emissions from wastewater at the affected source categories continues to be at least 90 percent less than the 1990 baseline emissions inventory. The emission rates shall be calculated in a manner consistent with the 1990 baseline emissions inventory.

5. ...

a. each request for an exemption determination shall be submitted to the Office of Environmental Assessment. Each request shall demonstrate that the overall control of VOC emissions from wastewater at the affected source categories will be at least 80 percent less than the 1990 baseline emissions inventory. The request shall include the applicable EPN; the PIN; the calendar year throughput of wastewater from affected source categories; the VOC emission rates; and a plot plan showing the location, EPN, and PIN associated with a wastewater storage, handling, transfer, or treatment facility. The emission rates shall be calculated in a manner consistent with the 1990 baseline emissions inventory;

b. ...

c. all representations in initial control plans and annual reports become enforceable conditions. It shall be unlawful for any person to vary from such representations if the variation will cause a change in the identity of the specific emission sources being controlled or the method of control of emissions unless the owner or operator of the wastewater component submits a revised control plan to the Office of Environmental Assessment within 30 days of the change. All control plans and reports shall include documentation that the overall reduction of VOC emissions at the plant from wastewater affected source categories continues to be at least 80 percent less than the 1990 baseline emissions inventory.

G.6. – I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:936 (September 1995), amended LR 22:1212 (December 1996), LR 24:26 (January 1998), LR 25:850 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 28:1765 (August 2002), LR 30:747 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2441 (October 2005), LR 33:

#### **Subchapter N. Method 43—Capture Efficiency Test Procedures**

[Editor's Note: This Subchapter was moved and renumbered from Chapter 61 (December 1996).]

#### **§2159. Recordkeeping and Reporting**

A. All affected facilities must maintain a copy of the capture efficiency protocol on file. All results of appropriate test methods and CE protocols must be reported to the Office of Environmental Assessment within 60 days of the test date. A copy of the results must be kept on file with the source.

B. If any changes are made to capture or control equipment, the source is required to notify the Office of Environmental Assessment of these changes and a new test may be required.

C. The source must notify the Office of Environmental Assessment 30 days prior to performing any capture efficiency and/or control efficiency tests.

D. – E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2454 (November 2000), LR 27:1224 (August 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

#### **Chapter 22. Control of Emissions of Nitrogen Oxides (NO<sub>x</sub>)**

##### **§2201. Affected Facilities in the Baton Rouge**

##### **Nonattainment Area and the Region of Influence**

A. – F.7. ...

a. the facility designation, as indicated by the identification number, submitted to the Office of Environmental Services;

F.7.b. – J.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:290 (February 2002), repromulgated LR 28:451 (March 2002), amended LR 28:1578 (July 2002), LR 30:748 (April 2004), LR 30:1170 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2441 (October 2005), LR 33:

##### **Chapter 23. Control of Emissions for Specific Industries<sup>1</sup>**

<sup>1</sup> Regulation of emissions of volatile organic compounds for certain industries are presented in Chapter 21.

##### **Subchapter A. Chemical Woodpulp Industry**

##### **§2301. Control of Emissions from the Chemical Woodpulp Industry**

A. – D.4. ...

a. Compliance. Owner or operators shall conduct source tests of recovery furnaces pursuant to the provisions in LAC 33:III.1503.D.2, Table 4, to confirm particulate emissions are less than that specified in Paragraph D.1 of this Section. The results shall be submitted to the Office of Environmental Assessment as specified in LAC 33:III.919 and 918. The testing should be conducted as follows:

D.4.a.i. – E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy,

Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1564 (December 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2454 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 32:1841 (October 2006), LR 33:

#### **Subchapter B. Aluminum Plants**

#### **§2303. Standards for Horizontal Stud Soderberg Primary Aluminum Plants and Prebake Primary Aluminum Plants**

A. – D.4. ...

E. Monitoring. Each horizontal stud Soderberg process primary aluminum plant and prebake process primary aluminum plant shall submit a detailed monitoring program subject to revision and approval by the Office of Environmental Assessment. The program shall include regularly scheduled monitoring for emissions of total particulates as well as ambient air sampling for suspended particulates.

[NOTE: Measurement of Concentrations. The methods listed in LAC 33:III.711.C, Table 2 and LAC 33:III.1503.D.2, Table 4, or such equivalent methods as may be approved by the department, shall be utilized to determine these particulate concentrations.]

F. – F.1.d. ...

2. Every horizontal stud Soderberg process primary aluminum plant and prebake process primary aluminum plant shall furnish, upon request, to the department such other data as the administrative authority may require to evaluate the plant's emission control program. Such plants shall immediately report any unauthorized emissions of any air contaminants to SPOC in accordance with LAC 33:I.3923.

G. – G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000), LR 30:1672 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 33:

#### **Subchapter D. Nitric Acid Industry**

#### **§2307. Emission Standards for the Nitric Acid Industry**

A. – B. ...

C. Exceptions

1. Start-Up Provisions

a. A four-hour start-up exemption from emission regulations may be authorized by the administrative authority for plants not subject to 40 CFR Part 60, Subpart G, as incorporated by reference in LAC 33:III.Chapter 30, which have been shut down. It is recognized that existing nitrogen oxide abatement equipment is effective only at normal operating temperatures. This provision allows the necessary time to bring up a facility from a cold start to near steady state condition. A report, in writing, explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emissions, shall be submitted to SPOC within seven calendar days of the occurrence using the procedures provided in LAC 33:I.3925.

b. ...

2. On-Line Operating Adjustments

a. A four-hour exemption from emission regulations may be extended by the administrative authority to plants not subject to 40 CFR Part 60, Subpart G, as incorporated by reference in LAC 33:III.Chapter 30, where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emissions, shall be submitted to SPOC within seven calendar days of the occurrence using the procedures provided in LAC 33:I.3925.

C.2.b. – H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000), LR 30:1672 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 33:

#### **Chapter 25. Miscellaneous Incineration Rules**

#### **Subchapter B. Biomedical Waste Incinerators**

#### **§2511. Standards of Performance for Biomedical Waste Incinerators**

A. – B.Type IV Waste. ...

C. Registration

1. Within 90 days after adoption of these regulations, all facilities operating incinerators designed or operated for the purpose of burning potentially infectious medical waste, shall submit a supplemental incinerator data form (SID-1) to SPOC.

C.2. – E.6.e. ...

7. A copy of all monitoring and tests results shall be submitted to the Office of Environmental Assessment for review and approval within 45 days of completion of testing.

F. – K. ...

L. Recordkeeping/Reporting. The owner or operator of any BWI shall keep a daily record of the hours the unit was in operation and the amount of waste incinerated. A separate record shall be kept of all chemotherapeutic waste incinerated that is not listed under the Resource Conservation and Recovery Act, 40 CFR 261.33(f). This record shall show the name of the material, date and time incinerated, and amount burned. Records shall be submitted to the Office of Environmental Compliance by March 31 for the previous calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1098 (October 1994), amended LR 21:1081 (October 1995), LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 33:



## **Subchapter C. Refuse Incinerators**

### **§2521. Refuse Incinerators**

A. – F.9.e. ...

10. A copy of all monitoring and tests results shall be submitted to the Office of Environmental Assessment for review and approval within 45 days of completion of testing.

G. – H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1100 (October 1994), amended LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2443 (October 2005), LR 33:

## **Subchapter D. Crematories**

### **§2531. Standards of Performance for Crematories**

A. – I.1.f. ...

2. A copy of all test results shall be submitted to the Office of Environmental Assessment for review and approval within 45 days of completion of testing.

J. – J.1.d. ...

2. The owner/operator shall provide the Office of Environmental Assessment at least 30 days prior notice of any emission test to afford the department the opportunity to conduct a pretest conference and to have an observer present. The department has the authority to invalidate any testing where such notice is not provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1107 (October 1994), amended LR 22:1127 (November 1996), LR 22:1212 (December 1996), LR 23:1509 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2443 (October 2005), LR 33:

## **Chapter 27. Asbestos-Containing Materials in Schools and State Buildings Regulation**

### **§2701. Asbestos-Containing Materials in Schools and State Buildings**

A. – B.3.b. ...

i. a copy of the inspection report must be submitted to the Office of Environmental Services within 90 days of the inspection; and

b.ii. – c. ...

C. Scope

1. This regulation requires local education agencies and the state government to identify friable and nonfriable asbestos-containing material (ACM) in schools and state buildings by visually inspecting schools and state buildings for such materials, sampling such materials if they are not assumed to be ACM, and having samples analyzed by appropriate techniques referred to in this rule. The regulation requires local education agencies and the state government to submit management plans to the Office of Environmental Services on or before 90 days after promulgation of this regulation, to begin to implement the plans 180 days after promulgation of this regulation, and to complete implementation of the plans in a timely fashion. If an exemption is requested for a state building that contains no asbestos, an inspection report supporting that exemption

should be submitted in accordance with Clause B.3.b.i of this Section. Management plans submitted to and approved by the Department of Environmental Quality prior to the promulgation of this regulation shall meet the inspection and assessment requirements of this Chapter. In addition, local education agencies and the state government are required to employ persons who have been accredited to conduct inspections, reinspections, develop management plans, or perform response actions. The regulation also includes recordkeeping requirements. Local education agencies and the state government may contractually delegate their duties under this rule, but they remain responsible for the proper performance of those duties. Local education agencies and the state government are encouraged to consult with the Office of Environmental Compliance of the Department of Environmental Quality for assistance in complying with this Rule.

C.2. – D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16:1056 (December 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:698 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2443 (October 2005), LR 33:

### **§2719. Operations and Maintenance**

A. – F.2.b. ...

c. Provide a prompt notification to SPOC of the major fiber release episode in accordance with LAC 33:I.3923 within 24 hours of the discovery of such an episode, and in writing as specified in LAC 33:I.3925 within seven calendar days after the initial notification.

d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:699 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000), LR 30:1672 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2444 (October 2005), LR 33:

### **§2723. Management Plans**

A. ...

1. Each local education agency or the state government shall develop an asbestos management plan for each school, including all buildings that are leased, owned, or otherwise used as school or state buildings, and submit the plan to the Office of Environmental Services. After June 20, 1994, each plan must include Form AAC-8, Required Elements for Management Plans (latest revised form can be obtained from the Office of Environmental Services or through the department's website). The plan may be submitted in stages that cover portions of the school or state building under the authority of the local education agency or the state government before the deadline specified in LAC 33:III.2701.C.



2. If a building to be used as part of a school or state building is leased or otherwise acquired more than 90 days after promulgation of this regulation, the local education agency or the state government shall include the new building in the management plan for the school or state building prior to its use as a school or state building. The revised portions of the management plan shall be submitted to the Office of Environmental Services.

3. If a local education agency or the state government begins to use a building as a school or state building more than 90 days after promulgation of this regulation, the local education agency or the state government shall submit a management plan for the school or state building to the Office of Environmental Services prior to its use as a school or state building. Each plan developed or modified after June 20, 1994 must include Form AAC-8, Required Elements for Management Plans.

B. – H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2457 (November 2000), amended by the Office of Environmental Assessment, LR 30:2021 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2444 (October 2005), LR 33:

#### §2735. Exclusions

A. – A.3.a. ...

b. Within 30 days after the inspector's determination, the local education agency or the state government shall submit a copy of the inspector's statement to the Office of Environmental Services and shall include the statement in the management plan for that school or state building.

4. – 5. ...

6. Based on inspection records and contractor and clearance records, an accredited inspector has determined that no ACBM is present in the homogeneous or sampling area where asbestos removal operations have been conducted before December 14, 1987, and shall sign and date a statement to that effect and include his or her accreditation number. The local education agency or the state government shall submit a copy of the statement to the Office of Environmental Services and shall include the statement in the management plan for that school or state building.

7. An architect or project engineer responsible for the construction of a new school building built after October 12, 1988, or an accredited inspector signs a statement that no ACBM was specified as a building material in any construction document for the building or, to the best of his or her knowledge, no ACBM was used as a building material in the building. The local education agency or the state government shall submit a copy of the signed statement of the architect, project engineer, or accredited inspector to the Office of Environmental Services and shall include the statement in the management plan for that school or state building.

B. – C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2457 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2444 (October 2005), LR 33:

#### §2799. Appendix A—Agent Accreditation Plan

##### Appendix A—Agent Accreditation Plan

The duration of initial and refresher training courses is specified in numbers of days. A day of training equals eight consecutive hours, including breaks and lunch.

In several instances, initial training courses for a specific discipline (e.g., workers, inspectors) require hands-on training. For asbestos abatement supervisors and workers, hands-on training should include working with asbestos-substitute materials, fitting and using respirators, use of glove-bags, donning protective clothing, constructing a decontamination unit, as well as other abatement work activities. Hands-on training must permit all supervisors and workers to have actual experience performing tasks associated with asbestos abatement. For inspectors, hands-on training should include conducting a simulated building walk-through inspection and respirator fit testing.

Training requirements for each of the five accredited disciplines are outlined below. Persons in each discipline perform a different job function and distinct role. Inspectors identify and assess the condition of ACBM, or suspect ACBM. Management planners use data gathered by inspectors to assess the degree of hazard posed by ACBM in schools to determine the scope and timing of appropriate response actions needed for schools. Project designers determine how asbestos abatement work should be conducted. Lastly, workers and contractor/supervisors carry out and oversee abatement work. Each accredited discipline and training curriculum is separate and distinct from the others. A person seeking accreditation in any of the five accredited MAP disciplines cannot attend two or more courses concurrently, but may attend such courses sequentially. All courses, both initial and refresher, shall be completed within 14 days of the commencement of the course.

A. – E.2. ...

a. A completed Asbestos Accreditation Affidavit, Form AAC-1 (which may be obtained from the Office of Environmental Services or through the department's website) that contains:

a.i. – e. ...

3. The completed application with applicable fees (LAC 33:III.223) is to be sent to the Office of Environmental Services.

4. – 8.a. ...

b. for failure to notify the Office of Environmental Services of changes in status;

E.8.c. – F. ...

1. Submit the latest revision of the Asbestos Training Organization Recognition Application, Form AAC-3, (which may be obtained from the Office of Environmental Services

or through the department's website) requesting approval to train asbestos agents.

2. – 2.g. ...

3. The completed application with applicable fees for organization and trainer recognition (LAC 33:III.223) are to be sent to the Office of Environmental Services.

4. – 5.a. ...

b. The recognized training organization must keep the Office of Environmental Services informed of any change in status of the training organization, such as pending fines, notices of violation, changes in instructor status, etc.

c. A notification of which courses will be taught, including where, when, and who will conduct the class, must be submitted to the Office of Environmental Services.

i. The notification must be received in writing by the Office of Environmental Services at least five days prior to class commencement. (Notification must be made at least three days prior to a course when only the state regulations are to be taught.)

ii. Cancellation of classes must be received by the Office of Environmental Services before the class should have commenced.

d. Within 10 days of the completion of a class a complete roster of trainees, their driver's license or state identification numbers and the issuing states, and their examination grades, with a 1" x 1 1/4" photograph of the face of each trainee, must be submitted to the Office of Environmental Services on a form approved by the department.

e. The Office of Environmental Services must be notified by phone or in writing of changes in class schedules prior to the date when the course was to have commenced.

f. – k.v. ...

6. Applications for trainer recognition shall be completed using the latest revision of the Asbestos Trainer Recognition Form, AAC-4 (latest revision of the form may be obtained from the Office of Environmental Services or through the department's website). A resume indicating proof of experience as described in Clause F.2.d.ii of this Appendix must be attached. The completed application with applicable fees (LAC 33:III.223) is to be sent to the Office of Environmental Services.

7. – 9.e.ii. ...

iii. If a training provider ceases to conduct training, the training provider shall notify the Office of Environmental Services and give it the opportunity to take possession of that providers asbestos training records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16:397 (May 1990), LR 16:1057 (December 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2458 (November 2000), amended by the Office of Environmental Assessment, LR 30:2022 (September 2004), LR 30:2803 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2444 (October 2005), LR 33:

## **Chapter 28. Lead-Based Paint Activities—Recognition, Accreditation, Licensure, and Standards for Conducting Lead-Based Paint Activities**

### **§2805. Recognition and Standards for Training Providers**

A. – A.1. ...

2. A training provider seeking recognition shall submit to the Office of Environmental Services the appropriate fees, as required in LAC 33:III.223, a completed LPF-4 form, and a completed LPF-5 form for each trainer to be recognized, containing the following information:

A.2.a. – B.8.g. ...

9. the training provider shall submit rosters, including photographs of participants, to the Office of Environmental Services within 10 working days of course completion. For each course, the training provider shall provide three photographs of each student:

B.9.a. – C.5.h. ...

#### **D. Renewal of Training Provider's Recognition**

1. A training provider seeking renewal of its recognition shall submit, along with the appropriate fees as required in LAC 33:III.223, a completed LPF-4 Form and a completed LPF-5 Form for each trainer to be recognized to the Office of Environmental Services 60 days prior to its expiration date. If a training provider does not submit its renewal application by that date, the department cannot guarantee the application will be reviewed and acted upon before the end of the one-year period.

2. – 3. ...

E. Notification Requirements. A training provider scheduling lead-based paint activities courses shall notify the Office of Environmental Services in writing as follows:

E.1. – G.3. ...

4. The training provider shall notify the Office of Environmental Services 30 days prior to relocating its business or transferring its records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1666 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2337 (November 2002), amended by the Office of Environmental Assessment, LR 30:2804 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2445 (October 2005), LR 33:642 (April 2007), LR 33:

### **§2807. Accreditation of Individuals**

A. – C.1. ...

a. submit a completed and signed application form to the Office of Environmental Services;

1.b. – 2. ...

#### **D. Reaccreditation**

1. To maintain accreditation individuals must be annually recertified by the Office of Environmental Services.

2. – 2.a. ...

b. submit a copy of the refresher course completion certificate to the Office of Environmental Services;

D.2.c. – E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1669 (December 1997), amended LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2337 (November 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 33:643 (April 2007), LR 33:

#### **§2809. Licensure of Lead Contractors**

##### **A. Licensure Requirements**

1. In order to bid and/or perform abatement activities, lead contractors must obtain a lead-based paint abatement and removal license from the State of Louisiana Licensing Board for Contractors. Prior to obtaining an initial or renewal license, the lead contractor must submit an application for approval, along with the appropriate fees as required in LAC 33:III.223, to the Office of Environmental Services and certify to the department that the following criteria have been, or will be, met.

##### **A.1.a. – B.2. ...**

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1671 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2338 (November 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 33:643 (April 2007), LR 33:

#### **§2811. Work Practice Standards for Conducting Lead-Based Paint Activities for Target Housing and Child-Occupied Facilities**

##### **A. – E.3. ...**

4. The lead contractor shall notify the Office of Environmental Services in writing of abatement activities.

##### **a. ...**

b. The project shall not start before the start date noted on the Lead Project Notification (LPN). The Office of Environmental Services shall be notified if the operation will stop for a day or more during the project time noted on the LPN or if the project has been canceled or postponed. The firm shall also give notice 24 hours before the completion of a project. Notice shall be submitted to the department with written follow-up and fax notification to the appropriate regional office.

##### **4.c. – 13. ...**

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1672 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), repromulgated LR 27:39 (January 2001), amended LR 28:2338 (November 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 33:644 (April 2007), LR 33:

## **Chapter 30. Standards of Performance for New Stationary Sources (NSPS)**

### **Subchapter A. Incorporation by Reference**

#### **§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60**

##### **A. – B. ...**

1. Whenever the referenced regulations (i.e., 40 CFR Part 60) provide authority to "the Administrator," such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR Part 60) to be provided to "the Administrator" shall be provided to the Office of Environmental Assessment, where the state is designated authority by EPA as "the Administrator," or shall be provided to the Office of Environmental Assessment and EPA, where EPA retains authority as "the Administrator."

2. 40 CFR Part 60, Subpart A, Section 60.4 (b)(T) shall be modified to read as follows: State of Louisiana: Office of Environmental Assessment, Department of Environmental Quality.

##### **3. – 9, Table. ...**

C. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html), from the Department of Environmental Quality, Office of Environmental Services, or from a public library.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:

## **Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program**

### **Subchapter A. Applicability, Definitions, and General Provisions**

#### **§5107. Reporting Requirements, Availability of Information, and Public Notice Provisions**

A. Annual Emissions Reporting. The owner or operator of any stationary source that emits any toxic air pollutant listed in LAC 33:III.5112, Table 51.1 or 51.3, shall submit a completed annual emissions report to the Office of Environmental Assessment in a format specified by the

department. The owner or operator shall identify on the emissions report the quantity of emissions in the previous calendar year for any such toxic air pollutant emitted.

1. ...

2. Subsequent Annual Emissions Reports. After the initial annual emissions report, the owner or operator of any stationary source subject to the requirements in Subsection A of this Section shall submit a completed annual emissions report to the Office of Environmental Assessment on or before July 1 of each year. Each subsequent report shall identify the quantity of emissions of all toxic air pollutants listed in LAC 33:III.5112, Table 51.1 or 51.3.

A.3. – B.1. ...

2. Emission Control Bypasses. Except as provided in Paragraph B.6 of this Section, for any unauthorized discharge into the atmosphere of a toxic air pollutant as a result of bypassing an emission control device, when the emission control bypass was not the result of an upset, and the quantity of the unauthorized bypass is greater than or equal to the lower of the Minimum Emission Rate (MER) in LAC 33:III.5112, Table 51.1, or a reportable quantity (RQ) in LAC 33:I.3931, or the quantity of the unauthorized bypass is greater than one pound and there is no MER or RQ for the substance in question, the owner or operator of the source shall provide prompt notification to SPOC of the bypass no later than 24 hours after the beginning of the bypass in the manner provided in LAC 33:I.3923. Where the emission control bypass was the result of an upset, the owner or operator shall comply with Paragraph B.3 of this Section.

3. Nonemergency Conditions. Except as provided in Paragraph B.6 of this Section, for any unauthorized discharge of a toxic air pollutant into the atmosphere that does not cause an emergency condition, the rate or quantity of which is in excess of that allowed by permit, compliance schedule, or variance, or for upset events that exceed the reportable quantity in LAC 33:I.3931, the owner or operator of the source shall immediately, but in no case later than 24 hours, provide prompt notification to SPOC in the manner provided in LAC 33:I.3923.

4. Written Reports. For every such discharge or equipment bypass as referred to in Paragraphs B.1, 2, and 3 of this Section, the owner or operator shall submit to SPOC a written report by certified mail within seven calendar days of learning of the discharge.

B.4.a. – D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and 2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:890 (July 1993), amended by the Office of the Secretary, LR 19:1022 (August 1993), repromulgated LR 19:1142 (September 1993), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:58 (January 1997), LR 24:1276 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2004 (September 2000), LR 26:2460 (November 2000), LR 29:2778 (December 2003), LR 30:1673 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2447 (October 2005), LR 33:

#### **§5111. Permit Requirements, Application, and Review**

A. – A.2.a. ...

b. if the modification will not result in an increase in emissions of any toxic air pollutant and will not create a

new point source, submit a letter requesting a permit modification to the Office of Environmental Services. The letter shall include those elements specified in Subparagraphs B.2.a, b, and c of this Section. The administrative authority shall notify the owner or operator of the determination to authorize or deny such modification within 30 days of receiving the request.

3. ...

a. submit a letter to the Office of Environmental Services indicating that the necessary permit modification (or new permit if no existing permit is in place) will be applied for by a date specified in the compliance schedule and requesting written authorization to construct; or

b. submit a permit application to the Office of Environmental Services in accordance with Subsection B of this Section.

4. – 6. ...

#### **B. Contents of Application for a Louisiana Air Permit**

1. An owner or operator may submit to the Office of Environmental Services, by certified mail, a written request for a determination of whether actions intended to be taken by the owner or operator constitute construction or modification, or the commencement thereof, of a stationary source. The administrative authority will notify the owner or operator of the determination within 30 days after receiving sufficient information to evaluate the request.

B.2. – C.5.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:891 (July 1993), repromulgated LR 19:1314 (October 1993), amended LR 23:59 (January 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2461 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2447 (October 2005), LR 33:

#### **§5113. Notification of Start-Up, Testing, and Monitoring**

A. Notification of Start-Up. Any owner or operator that has an initial start-up of a stationary source subject to MACT or Ambient Air Standard Requirements under this Subchapter shall furnish SPOC written notification as follows:

1. a notification to SPOC of the anticipated date of the initial start-up of the source not more than 60 days nor less than 30 days before that date; and

2. a notification to SPOC of the actual date of initial start-up of the source postmarked within 10 working days after such date.

#### **B. Emission Tests and Waiver of Emission Tests**

1. The department may require any owner or operator to conduct tests to determine the emission of toxic air pollutants from any source whenever the department has reason to believe that an emission in excess of those allowed by this Subchapter is occurring. The department may specify testing methods to be used in accordance with good professional practice. The department may observe the testing. All tests shall be conducted by qualified personnel. The Office of Environmental Assessment shall be given a copy of the test results in writing signed by the person

responsible for the tests within 45 days after completion of the test.

2. – 4.e. ...

5. Unless otherwise specified, samples shall be analyzed and emissions determined within 30 days after each emission test has been completed. The owner or operator shall report the determinations of the emission test to the Office of Environmental Assessment by a certified letter sent before the close of business on the 45th day following the completion of the emission test.

6. ...

7. The owner or operator shall notify the Office of Environmental Assessment of any emission test required to demonstrate compliance with this Subchapter at least 30 days before the emission test to allow the administrative authority the opportunity to have an observer present during the test.

C. – C.1. ...

2. When required at any other time requested by the administrative authority, the owner or operator of a source being monitored shall conduct a performance evaluation of the monitoring system and furnish the Office of Environmental Assessment with a copy of a written report of the results within 60 days of the evaluation. The owner or operator of the source shall furnish the Office of Environmental Assessment with written notification of the date of the performance evaluation at least 30 days before the evaluation is to begin.

3. – 4. ...

5. The administrative authority may require a continuous monitoring system where such systems are deemed feasible and necessary to demonstrate compliance with applicable standards. The owner or operator of a facility that the administrative authority has required to install a continuous monitoring system shall submit to the Office of Environmental Assessment for approval a plan describing the affected sources and the methods for ensuring compliance with the continuous monitoring system. The plan for the continuous monitoring system must be submitted to the department within 90 days after the administrative authority requests either the initial plan or an updated plan.

5.a. – 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1364 (December 1992), LR 23:59 (January 1997), LR 23:1658 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2461 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 33:

**Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)**

**§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)**

A. – B. ...

1. 40 CFR Part 61, Subpart A, Section 61.04(b)(T) is modified to read as follows: Louisiana Department of Environmental Quality, Office of Environmental Services.

2. Whenever the referenced regulations (i.e., 40 CFR Part 61) provide authority to "the Administrator," such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR Part 61) to be provided to "the Administrator" shall be provided to the Office of Environmental Compliance, where the state is designated authority by EPA as "the Administrator," or shall be provided to the Office of Environmental Compliance and EPA, where EPA retains authority as "the Administrator."

C. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html), from the Department of Environmental Quality, Office of Environmental Services, or from a public library.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:

**Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources**

**§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources**

A. ...

B. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html), from the Department of Environmental Quality, Office of Environmental Services, or from a public library.

C. ...

1. Whenever the referenced regulations (i.e., 40 CFR Part 63) provide authority to "the Administrator," such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR Part 63) to be provided to "the Administrator" shall be provided to the Office of

Environmental Compliance, where the state is designated authority by EPA as "the Administrator," or shall be provided to the Office of Environmental Compliance and EPA, where EPA retains authority as "the Administrator."

2. – 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:

### Subchapter M. Asbestos

#### §5151. Emission Standard for Asbestos

A. – F.2. ...

a. provide the Office of Environmental Services with typed notice of intention to demolish or renovate using the latest version of Form AAC-2, Notification of Demolition and Renovation. This form is available from the Office of Environmental Services or through the department's website. Delivery of the notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable. The use of a prior version of the AAC-2 Form is acceptable unless the department has previously provided the owner or operator with a copy of the current version, or the owner or operator is aware of the latest version;

b. – c.iv.(a).(i). ...

(ii). provide the Office of Environmental Services with a written notice of the new start date as soon as possible before, and no later than, the original start date. Delivery of the updated notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable;

c.iv.(b). – f.i.(c). ...

ii. within five working days after the notification is made by phone, a typed notification as specified in Subparagraphs F.2.d and e shall be submitted to the Office of Environmental Services in order to obtain an ADVF;

g. – g.iii. ...

iv. the completed ADVF from the transporter shall be verified and signed by the disposal site owner or operator and mailed to the Office of Environmental Services within 30 working days. A copy is to be returned to the waste generator;

F.2.g.v. – G.2. ...

a. Notify the Office of Environmental Services at least 20 days before beginning the spraying operation. Include the following information in the notice:

G.2.a.i. – I. ...

1. deposit all asbestos-containing waste material at a waste disposal site recognized by the department. A completed AAC-7 Form shall have been submitted to the Office of Environmental Services by the disposal facility for prior recognition. Updated information will be required upon request. The latest AAC-7 Form may be obtained from the Office of Environmental Services or through the department's website. The Office of Environmental Services

will maintain a current list of recognized asbestos waste disposal sites;

2. – 3.a.iii. ...

b. use an alternative emission control and waste treatment method that has received prior written approval by the administrative authority. To obtain approval for an alternative method, a written application must be submitted to the Office of Environmental Services demonstrating that the following criteria are met:

3.b.i. – 5.b. ...

c. report in writing to the Office of Environmental Services if a copy of the waste shipment record, signed by the owner or operator of the designated waste disposal site, is not received by the waste generator within 45 days of the date the waste was accepted by the initial transporter. Include in the report the following information:

I.5.c.i. – J.4.c. ...

d. report in writing to the Office of Environmental Services if a copy of the waste shipment record, signed by the owner or operator of the designated waste disposal site, is not received by the waste generator within 45 days of the date the waste was accepted by the initial transporter. Include in the report the following information:

J.4.d.i. – K.2.b. ...

c. when requesting a determination on whether a natural barrier adequately deters public access, supply information enabling the Office of Environmental Services to determine whether a fence or a natural barrier adequately deters access by the general public;

3. ...

4. notify the Office of Environmental Services in writing at least 45 days prior to excavating or otherwise disturbing any asbestos-containing waste material that has been deposited at a waste disposal site under this Section, and follow the procedures specified in the notification. If the excavation will begin on a date other than the one contained in the original notice, notice of the new start date must be provided to the Office of Environmental Services at least 10 working days before excavation begins and in no event shall excavation begin earlier than the date specified in the original notification. Include the following information in the notice:

K.4.a. – L.6.g. ...

7. submit the following reports to the Office of Environmental Services:

7.a. – 8. ...

M. Reporting and Recordkeeping. Any new source to which this Subchapter applies (with the exception of sources subject to Subsections D, F, G, and H of this Section), which has an initial start-up date preceding the effective date of this Subchapter, shall provide the following information to the administrative authority, postmarked or delivered, within 90 days of the effective date. In the case of a new source that does not have an initial start-up date preceding the effective date, the information shall be provided to the administrative authority, postmarked or delivered, within 90 days of the initial start-up date. Any owner or operator of an existing source shall provide the following information to the administrative authority within 90 days of the effective date of this Subchapter, unless the owner or operator of the existing source has previously provided this information to the administrative authority. Any changes in the information

provided by any existing source shall be provided to the administrative authority, postmarked or delivered, within 30 days after the change. The owner or operator of any existing source to which this Section is applicable shall, within 90 days after the effective date, provide the following information to the Office of Environmental Services:

M.1. – N.5.a.v. ...

b. as soon as possible and no longer than 30 days after receipt of the waste, send a copy of the signed ADVF to the waste generator and to the Office of Environmental Services;

c. upon discovering a discrepancy between the quantity of waste designated on the ADVF and the quantity actually received, attempt to reconcile the discrepancy with the waste generator. If the discrepancy is not resolved within 15 days after receiving the waste, immediately report in writing to the Office of Environmental Services. Describe the discrepancy and attempts to reconcile it, and submit a copy of the ADVF with the report;

5.d. – 7. ...

8. Submit to the Office of Environmental Services, upon closure of the facility, a copy of records of asbestos waste disposal locations and quantities.

9. ...

10. Notify the Office of Environmental Services, in writing at least 45 days prior to excavating or otherwise disturbing any asbestos-containing waste material that has been deposited at a waste disposal site and is covered. If the excavation will begin on a date other than the one contained in the original notice, notice of the new start date shall be provided to the administrative authority at least 10 working days before excavation begins and in no event shall excavation begin earlier than the date specified in the original notification. Include the following information in the notice:

N.10.a. – P.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), repealed and repromulgated LR 18:1121 (October 1992), amended LR 20:1277 (November 1994), LR 24:27 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2462 (November 2000), LR 30:1673 (August 2004), amended by the Office of Environmental Assessment, LR 30:2022 (September 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 33:

## **Chapter 53. Area Sources of Toxic Air Pollutants**

### **Subchapter A. Toxic Emissions Reporting Requirements**

#### **§5307. Reporting Requirements**

A. – A.7. ...

B. Subsequent reports will be due on or before July 1 of each year. The report shall be submitted to the Office of Environmental Services and include the information requested in Subsection A of this Section for the preceding calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:431 (April 1994), amended by the Office of Environmental Assessment, Environmental

Planning Division, LR 26:2464 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2450 (October 2005), LR 33:

### **Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources**

#### **§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources**

A. – A, Table. ...

B. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html), from the Department of Environmental Quality, Office of Environmental Services, or from a public library.

C. Modifications or Exceptions. Whenever the referenced regulations (i.e., 40 CFR Part 63) provide authority to "the Administrator," such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR Part 63) to be provided to "the Administrator" shall be provided to the Office of Environmental Services, where the state is designated authority by EPA as "the Administrator," or shall be provided to the Office of Environmental Services and EPA, where EPA retains authority as "the Administrator."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:810 (May 2006), LR 33:

## **Chapter 59. Chemical Accident Prevention and Minimization of Consequences**

### **Subchapter B. Risk Management Program Requirements**

#### **§5911. Registration for Stationary Sources**

A. The owner or operator of each stationary source that has a covered process as defined by 40 CFR 68.3 shall register with the Office of Environmental Compliance by the latest of the following dates:

A1. – B.4, Certification. ...

C. If at any time after the submission of the registration, information in the registration is no longer accurate, the owner or operator shall submit an amended registration within 60 days to the Office of Environmental Compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation

Protection, Air Quality Division, LR 20:426 (April 1994), amended LR 22:1125 (November 1996), LR 23:1496 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2464 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 33:

**Part V. Hazardous Waste and Hazardous Materials**  
**Subpart 1. Department of Environmental Quality—**  
**Hazardous Waste**

**Chapter 1. General Provisions and Definitions**

**§105. Program Scope**

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including solid waste and hazardous waste, appear in LAC 33:V.109. Wastes that are excluded from regulation are found in this Section.

**A. Notification of Hazardous Waste Activity**

1. Within 90 days after the promulgation of these regulations anyone subject to these regulations who has not previously notified the department on the Notification of Hazardous Waste Activity Form HW-1, or whose notification on Form HW-1 is not approved, must notify the Office of Environmental Services, using Form HW-1. Within 90 days after changes in waste characteristics or changes in these regulations that result in changes in the notification, interim status facilities must revise their notification form by resubmitting a corrected copy of Form HW-1.

**A.2. – C.1.b. ...**

2. The Office of Environmental Services is responsible for nonhazardous solid wastes treated, stored, and/or disposed of in public and private solid waste facilities.

**A.3. – D.1.i.iii.(d). ...**

(e) prior to operating pursuant to this exclusion, the plant owner or operator submits to the Office of Environmental Services a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language:

"I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation."

The plant must maintain a copy of that document in its on-site records for a period of no less than three years from the date specified in the notice. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the administrative authority for reinstatement. The administrative authority may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that violations are not likely to recur;

**j. – p.iv.(c). ...**

v. the owner or operator provides notice to the Office of Environmental Services, providing the following information: the types of materials to be recycled; the type and location of the storage units and recycling processes; and the annual quantities expected to be placed in land-based

units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process; and

**p.vi. – t.ii ...**

(a) submit a one-time notice to the Office of Environmental Services that contains the name, address, and EPA ID number of the generator or intermediate handler facility, provides a brief description of the secondary material that will be subject to the exclusion, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in this Subparagraph;

**ii.(b). – iii.(a). ...**

(b) submit a one-time notification to the Office of Environmental Services that, at a minimum, specifies the name, address, and EPA ID number of the manufacturing facility and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in this Subparagraph;

**(c). ...**

(d) submit to the Office of Environmental Services an annual report that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial processes from which they were generated;

**1.t.iv. – 5.c.ii. ...**

iii. the additional quantities and time frames allowed in Clauses D.5.c.i and ii of this Section are subject to all the provisions in Subparagraph D.5.a and Clauses D.5.b.iii-vi of this Section. The generator or sample collector must apply to the Office of Environmental Services and provide in writing the following information:

**5.c.iii.(a). – 6. ...**

a. no less than 45 days before conducting treatability studies, the facility notifies the Office of Environmental Services in writing that it intends to conduct treatability studies under this Subsection;

**b. – h. ...**

i. the facility prepares and submits a report to the Office of Environmental Services, by March 15 of each year, that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

**i.i. – j. ...**

k. the facility notifies the Office of Environmental Services by letter when the facility is no longer planning to conduct any treatability studies at the site.

**D.7. – J.1. ...**

2. Non-Emergency Conditions. For any unauthorized discharge of a hazardous waste that does not cause an emergency condition, the discharger shall notify SPOC within 24 hours of learning of the discharge and in accordance with other provisions of LAC 33:I.Chapter 39.

**K. – P.2. ...**

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR



10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217, LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362, 368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813, 831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564, 567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687, 1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003), LR 30:1680 (August 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:605 (April 2006), LR 32:821 (May 2006), LR 33:450 (March 2007), LR 33:

#### **§109. Definitions**

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

\* \* \*

*Hazardous Waste*—a *solid waste*, as defined in this Section, is a hazardous waste if:

1. – 4.b.ii.(c).(i), Table B. ...

(ii) a one-time notification and certification must be placed in the facility's files and sent to the Office of Environmental Services for K061, K062, or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to Subtitle D units. The notification and certification that is placed in the generators' or treaters' files must be updated if the process or operation generating the waste changes and/or if the Subtitle D unit receiving the waste changes. However, the generator or treater needs only to notify the administrative authority on an annual basis if such changes occur. Such notification and certification should be sent to the EPA region or authorized state by the end of the calendar year, but no later than December 31. The notification must include the following information:

4.b.ii.(c).(ii).[a]. – 6.b. ...

\* \* \*

*SPOC*—Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC).

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988),

LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006), LR 33:

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

#### **§303. Overview of the Permit Program**

##### **A. General Application Requirements**

1. Permit Application. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the Office of Environmental Services, as described in this Section and LAC 33:V.4301, 4303, and 4305. Persons currently authorized with interim status shall apply for permits when required by the administrative authority. Persons covered by permits by rule (LAC 33:V.305.D) need not apply. Procedures for applications, issuance, and administration of emergency permits are found exclusively in LAC 33:V.701 and 703. Procedures for application, issuance, and administration of research, development, and demonstration permits are found exclusively in LAC 33:V.329.

2. No later than 90 days after the promulgation or revision of these regulations, all generators and transporters of hazardous waste, and all owners or operators of hazardous waste treatment, storage, or disposal facilities must file or have on file a notification of that activity using Notification Form HW-1, available from the Office of Environmental Services or through the department's website. For generators of hazardous waste, the Notification Form HW-1 shall be deemed a registration upon acceptance and approval by the administrative authority.

A.3. – H.1. ...

2. An application for a permit for a new TSD facility (including both Parts I and II) may be filed any time after promulgation of these standards, applicable to such facility. The application shall be filed with the Office of Environmental Services.

3. ...

4. A new facility must obtain an EPA identification number. EPA identification numbers will be issued only by the EPA. However, application for an EPA Identification Number shall be made by completing the Hazardous Waste Notification form provided by the Office of Environmental Services.

I. – Q. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 14:790 (November 1988), LR 16:220 (March 1990), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 21:564 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000), LR 27:708 (May 2001), amended by the Office of Environmental Assessment, LR 30:2023 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2453 (October 2005), LR 33:

### **§309. Conditions Applicable to All Permits**

Each permit shall include permit conditions necessary to achieve compliance with the Act and these regulations, including each of the applicable requirements specified in LAC 33:V.Subpart 1. In satisfying this provision, the administrative authority may incorporate applicable requirements of LAC 33:V.Subpart 1 directly into the permit or establish other permit conditions that are based on LAC 33:V.Subpart 1. The following conditions apply to all hazardous waste permits. All conditions applicable to permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit.

A. – K. ...

#### **L. Reporting Requirements**

1. **Planned Changes.** The permittee shall give notice to the Office of Environmental Services, as soon as possible, of any planned physical alterations or additions to the permitted facility.

2. **Anticipated Noncompliance.** The permittee shall give advance notice to the Office of Environmental Services of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

3. – 7.d. ...

8. **Manifest Discrepancy Report.** If a significant discrepancy in a manifest is discovered, the permittee must attempt to reconcile the discrepancy. If not resolved within five days, the permittee must submit a report including a copy of the manifest to the Office of Environmental Services.

9. **Unmanifested Waste Report.** An unmanifested waste report must be submitted to the Office of Environmental Services within five days of receipt of unmanifested waste.

10. **Annual Report.** An annual report must be submitted to the Office of Environmental Services covering facility activities during the previous calendar year.

11. ...

12. **Other Information.** If the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application, or in any report to the administrative authority, he shall promptly submit such facts or information to the Office of Environmental Services.

M. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 20:1000 (September

1994), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2453 (October 2005), LR 33:

### **§321. Modification of Permits**

A. Any proposed major modification of a facility or a site, any change in wastes handled in either volume or composition, and any other change in the site, facility, or operations that materially deviates from a permit or materially increases danger to the public health or the environment must be reported in writing to the Office of Environmental Services prior to such an occurrence and a permit modification must be obtained in accordance with the application, public notice, and permit requirements of this Chapter. Any operator or ownership change shall be made in accordance with LAC 33:I.Chapter 19.

B. – C.1.a. ...

i. The permittee must notify the Office of Environmental Services concerning the modification by certified mail or other means that establish proof of delivery within seven calendar days after the change is put into effect. This notice must specify the changes being made to permit conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee must provide the applicable information required by LAC 33:V.515-533, 2707, and 3115.

a.ii. – c. ...

#### **2. Class 2 Modifications**

a. For Class 2 modifications, listed in LAC 33:V.322, the permittee must submit a modification request to the Office of Environmental Services that:

2.a.i. – 10.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1691 (September 1998), LR 25:435 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000), LR 28:1000 (May 2002), LR 29:319 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2430, 2454 (October 2005), LR 33:

### **§323. Suspension, Modification or Revocation and Reissuance, and Termination of Permits**

A. ...

B. If the administrative authority decides the request is not justified, he or she shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings. Denials by the administrative authority may be appealed to the Office of the Secretary, in accordance with R.S. 30:2050.21.

1. – 4.e. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Hazardous Waste Division, LR 10:200 (March 1984), amended LR 14:790 (November 1988), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2467 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2454 (October 2005), LR 33:

**Chapter 5. Permit Application Contents**  
**Subchapter A. General Requirements for Permit Applications**

**§501. Permit Application**

A. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit a permit application to the Office of Environmental Services, as described in this Section and LAC 33:V.4301, 4303, and 4305. Persons currently authorized with interim status shall apply for permits when required by the administrative authority. Persons covered by RCRA permits by rule (LAC 33:V.305.D) need not apply. Procedures for applications, issuance, and administration of emergency permits are found exclusively in LAC 33:V.701 and 703. Procedures for application, issuance, and administration of research, development, and demonstration permits are found exclusively in LAC 33:V.329.

B. – C.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 20:1000 (September 1994), LR 20:1109 (October 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2467 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2454 (October 2005), LR 33:

**Subchapter E. Specific Information Requirements**

**§520. Specific Part II Information Requirements for Groundwater Protection**

The following additional information regarding protection of groundwater is required from owners or operators of hazardous waste facilities containing a regulated unit except as provided in LAC 33:V.3301.B and C:

A. – F.4. ...

G. if the presence of hazardous constituents has been detected in the groundwater at the point of compliance at the time of the permit application, the owner or operator must submit to the Office of Environmental Services sufficient information, supporting data, and analyses to establish a compliance monitoring program that meets the requirements of LAC 33:V.3319. Except as provided in LAC 33:V.3317.H, the owner or operator must also submit to the Office of Environmental Services an engineering feasibility plan for a corrective action program necessary to meet the requirements of LAC 33:V.3321, unless the owner or operator obtains written authorization in advance from the administrative authority to submit a proposed permit schedule for submittal of such a plan. To demonstrate compliance with LAC 33:V.3319, the owner or operator must address the following items:

G.1. – H.5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2467 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2454 (October 2005), LR 33:

**Subchapter F. Special Forms of Permits**

**§537. Permits for Boilers and Industrial Furnaces**

**Burning Hazardous Waste for Recycling Purposes Only (Boilers and industrial furnaces burning hazardous waste for destruction are subject to permit requirements for incinerators.)**

A. – B.2.h.x. ...

i. The applicant must submit to the Office of Environmental Services a certification that the trial burn has been conducted in accordance with the approved trial burn plan and must submit the results of all the analyses and determinations required in Subparagraph B.2.h of this Section. This submission shall be made within 90 days of completion of the trial burn, or later if approved by the administrative authority.

B.2.j. – D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:818, 832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2468 (November 2000), LR 27:292 (March 2001), LR 29:320 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2455 (October 2005), LR 33:

**Subchapter G. Remedial Action Plans (RAPs) - General Information**

**§565. How do I apply for a RAP?**

A. To apply for a RAP, you must complete an application, sign it, and submit it to the Office of Environmental Services according to the requirements in this Subchapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:272 (February 2000), amended LR 26:2468 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2455 (October 2005), LR 33:

**§590. To whom must I submit my RAP application?**

A. You must submit your application for a RAP to the Office of Environmental Services for approval.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:273 (February 2000), amended LR 26:2468 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2455 (October 2005), LR 33:

## **Chapter 7. Administrative Procedures for Treatment, Storage, and Disposal Facility Permits**

### **Subchapter B. Hearings**

#### **§708. Preapplication Public Meeting and Notice, Public Notice Requirements at the Application Stage, and Information Repository**

A. – A.4.a.iii. ...

iv. a notice to the department. The applicant shall send a copy of the newspaper notice to the Office of Environmental Services and to the appropriate units of state and local government, in accordance with LAC 33:V.717.A.1.b.

A.4.b. – C.6. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:659 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2468 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2455 (October 2005), LR 33:

## **Chapter 11. Generators**

### **Subchapter A. General**

#### **§1105. EPA Identification Numbers**

A generator must not treat, store, dispose of, transport or offer for transportation hazardous waste without having received an active EPA identification number.

A. ...

B. A generator must notify the Office of Environmental Services within seven days if any of the information submitted in the application for the identification number changes. Because EPA identification numbers are site-specific, if a facility moves to another location, the owner/operator must obtain a new EPA identification number for the facility.

C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17:362 (April 1991), LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2455 (October 2005), LR 33:

#### **§1107. The Manifest System**

A. General Requirements. The revised manifest form and procedures in 40 CFR Part 262 and the Appendix to Part 262 shall be effective as of September 5, 2006. As of September 5, 2006, Uniform Hazardous Waste Manifest forms must be obtained only from EPA-registered and approved sources as identified by the Manifest Registry. Contact the Office of Environmental Services, or access the U.S. Environmental Protection Agency's website to obtain information on EPA-registered and approved sources.

A.1. – B.1.c. ...

d. the description of the waste(s) (e.g., proper shipping name, EPA hazardous waste number, etc.) required by Hazardous Materials regulations of the Louisiana Department of Public Safety in LAC 33:V.Subpart 2.Chapter 101; and

B.1.e. – D.6. ...

E. Special Manifest Provisions

1. Scope. These provisions will apply to material in containers meeting the provisions of lab packs except that the outer container, excluding overpacking, shall not exceed 5 gallons (20 liters) in total liquid capacity prior to addition of the absorbent. The container and overpacking shall comply with applicable requirements of the Louisiana Department of Public Safety or its successor agency. Except as otherwise provided herein, the requirements of LAC 33:V.2519 shall be met.

2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:266, 267 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000), LR 27:42 (January 2001), LR 27:709 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:823 (May 2006), LR 33:89 (January 2007), repromulgated LR 33:281 (February 2007), amended LR 33:

#### **§1109. Pre-Transport Requirements**

A. – A.3. ...

B. Labeling. Before transporting or offering hazardous waste for transportation off-site, a generator must label each package in accordance with the applicable transportation regulations on hazardous materials of the Louisiana Department of Public Safety or its successor agency under LAC 33:V.Subpart 2.Chapter 105.

C. – F.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:277 (February 2000), LR 26:2470 (November 2000), LR 27:293 (March 2001), LR 27:709, 716 (May 2001), LR 27:1014 (July 2001), LR 30:1673 (August 2004), amended by the Office of Environmental Assessment, LR 31:1571 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:823 (May 2006), LR 33:

#### **§1111. Recordkeeping and Reporting**

A. – A.4. ...

B. Annual Report

1. A generator who ships any hazardous waste off-site to a treatment, storage, or disposal facility within the United States must prepare and submit a single copy of an annual report to the Office of Environmental Services by March 1 of each year. The annual report must be submitted on the form provided by the administrative authority and it must cover generator activities during the previous calendar year. The reports must also include the following information:

a. – h. ...

2. Generators who also dispose, treat, or store hazardous waste on-site shall also submit annual reports to the Office of Environmental Services, reporting total quantity, by type, of waste handled, and how that waste was disposed, treated, or stored. Generators must maintain on site a copy of each report submitted to the department for a period of at least three years from the date of the report. Reporting for exports of hazardous waste is not required on the annual report form. A separate annual report requirement is set forth in LAC 33:V.1113.G.

C. – C.1. ...

2. A generator of greater than 1000 kg of hazardous waste in a calendar month must submit an Exception Report to the Office of Environmental Services if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:

a. – b. ...

3. A generator of greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter must submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the Office of Environmental Services.

[NOTE: The submission to the administrative authority need only be a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received.]

D. – E.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 17:365 (April 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000), LR 27:42 (January 2001), LR 27:710 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

### **§1113. Exports of Hazardous Waste**

A. – D.1.b.viii. ...

2. Notification shall be sent to the Office of Environmental Services, with "Attention: Notification to Export" prominently displayed on the front of the envelope.

[NOTE: This does not relieve the regulated community from the requirement of submitting notification to the Office of Waste Programs Enforcement, RCRA Enforcement Division (OS-520), EPA, as required by 40 CFR 262.53(b).]

D.3. – I.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 22:20 (January 1996), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the

Office of Waste Services, Hazardous Waste Division, LR 24:661 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000), LR 27:710 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:824 (May 2006), LR 33:

### **§1123. Imports of Foreign Hazardous Waste**

A. – D.4. ...

E. Notification shall be sent to the Office of Environmental Services, with "Attention: Notification to Import Foreign Hazardous Waste" prominently displayed on the front of the envelope. Such notices shall be sent by certified mail.

F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:20 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:824 (May 2006), LR 33:

### **§1125. Unmanifested Foreign Hazardous Waste**

A. Any person who imports foreign generated material that has not been classified as hazardous waste prior to entry into the state of Louisiana, but subsequently is determined to be hazardous waste, must immediately notify the Office of Environmental Services by telephone.

B. ...

1. file, in writing, an unmanifested waste report with the Office of Environmental Services, which shall include:

1.a. – 2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:21 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

## **Subchapter B. Transfrontier Shipments of Hazardous Waste**

### **§1127. Transfrontier Shipments of Hazardous Waste for Recovery within the OECD**

A. – G.1.f.Certification. ...

2. Exception Reports. Any person who meets the definition of *primary exporter* in LAC 33:V.109 must file an exception report, in lieu of the requirements of LAC 33:V.1111.C, with the Office of Environmental Services if any of the following occurs:

G.2.a. – I.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:661 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000), LR 27:293 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

### **§1199. Appendix A—Uniform Hazardous Waste Manifest and Instructions (DEQ Form HW-3 and Its Instructions)**

Read all instructions before completing DEQ Form HW-3. This form is available from the Office of Environmental Services and has been designed for use on a 12-pitch (elite)

typewriter; a firm point pen may also be used, press down hard. State regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, and disposal facilities to use this form (HW-3) and, if necessary, the continuation sheet for both interstate and intrastate transportation. Federal and state regulations also require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, and disposal facilities to complete the following information.

I. – II.D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:42 (January 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

## **Chapter 15. Treatment, Storage, and Disposal Facilities**

### **§1504. Construction Quality Assurance Program**

A. – C.2. ...

D. Certification. Waste shall not be received in a unit subject to this Section until the owner or operator has submitted to the Office of Environmental Services, by certified mail or hand delivery, a certification signed by the CQA officer that the approved CQA plan has been successfully carried out, that the unit meets the requirements of LAC 33:V.2903.J or K, 2303.C or D, or 2503.L or M, and the procedure in LAC 33:V.309.L.3.b has been completed. Documentation supporting the CQA officer's certification must be furnished to the administrative authority upon request.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2472 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2455 (October 2005), LR 33:

### **§1505. Discharges from the Site**

A. – A.1. ...

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

B. – C.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2472 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2456 (October 2005), LR 33:

### **§1513. Contingency Plan and Emergency Procedures**

A. – A.1. ...

2. A contingency plan to be implemented in the event of an emergency shall be filed with the Office of Environmental Services and, after approval, with the local

fire and police departments (if any operate in the area), hospitals and emergency response teams operating in the area that are subject to call by the operator or the department.

A.3. – B.6. ...

#### **C. Copies of Contingency Plan**

1. The contingency plan must be submitted to the Office of Environmental Services with the permit application and, after modification or approval, will become a condition of any permit issued.

C.2. – F.8.b. ...

9. The owner or operator must notify SPOC and the appropriate state and local authorities that the facility is in compliance with Paragraph F.8 of this Section before operations are resumed in the affected area(s) of the facility.

10. The owner or operator must note in the operating record the time, date, and details of any incident that requires implementation of the contingency plan. Within 15 days after the incident, he must submit a written report on the incident to SPOC that includes:

a. – g. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:614 (July 1990), LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2472 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2456 (October 2005), LR 33:

### **§1516. Manifest System for Treatment, Storage, and Disposal (TSD) Facilities**

A – A.1. ...

2. The revised manifest form and procedures in 40 CFR Part 262 and the Appendix to Part 262 shall be effective as of September 5, 2006. As of September 5, 2006, Uniform Hazardous Waste Manifest forms must be obtained only from EPA-registered and approved sources as identified by the Manifest Registry. Contact the Office of Environmental Services, or access the U.S. Environmental Protection Agency's website to obtain information on EPA-registered and approved sources.

B. – C.2. ...

3. Upon discovering a significant discrepancy, the owner or operator shall attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator shall immediately submit to the Office of Environmental Services a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

4. – 7. ...

D. Unmanifested Waste Report. If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in LAC 33:V.1307.E.2, and if the waste is not excluded from the manifest requirements by LAC 33:V.108, then the owner or operator must prepare and submit a single copy of a report to the administrative authority within 15 days after receiving the waste. The unmanifested waste report must be submitted to the Office of Environmental Services. The report must be

designated "Unmanifested Waste Report" and include the following information:

1. – 7. Comment. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:825 (May 2006), amended LR 33:

#### **§1527. Receiving and Monitoring Incoming Waste**

A. – E. ...

F. Unmanifested Waste Reports. Any wastes presented for disposal that are not accompanied by a properly completed manifest shall be rejected. The TSD operator shall note the name of the driver, hauler, and the vehicle identification numbers. He shall notify SPOC by phone immediately and in writing within seven days of the refusal to accept the waste and provide the administrative authority with the required information.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2472 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2456 (October 2005), LR 33:

#### **§1529. Operating Record and Reporting Requirements**

A. – C.3. ...

D. Annual Report. The owner or operator shall prepare and submit a single copy of an annual report to the Office of Environmental Services by March 1 of each year. The report form shall be used for this report. The annual report must cover facility activities during the previous calendar year. Information submitted on a more frequent basis may be included by reference or in synopsis form where it is not pertinent to reporting under LAC 33:V.1516 or monitoring reporting under LAC 33:V.3317. It shall include the following information:

D.1. – E.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1695 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 26:278 (February 2000), LR 26:2473 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:827 (May 2006), LR 33:

#### **§1531. Required Notices**

A. The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source must notify the Office of Environmental Services in writing at least four weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

B. – E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:666 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2473 (November 2000), LR 27:294 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

### **Chapter 17. Air Emission Standards**

#### **Subchapter A. Process Vents**

##### **§1715. Reporting Requirements**

A. A semiannual report shall be submitted by owners and operators subject to the requirements of this Subchapter to the Office of Environmental Services by dates specified by the administrative authority. The report shall include the following information:

A.1. – B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2473 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2456 (October 2005), LR 33:

#### **Subchapter B. Equipment Leaks**

##### **§1737. Alternative Standards for Valves in Gas/Vapor Service or in Light Liquid Service: Percentage of Valves Allowed to Leak**

A. – B. ...

1. An owner or operator must notify the Office of Environmental Services that the owner or operator has elected to comply with the requirements of this Section.

B.2. – C.3. ...

D. If an owner or operator decides to comply with this Section no longer, the owner or operator must notify the Office of Environmental Services in writing that the work practice standard described in LAC 33:V.1729.A-E will be followed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2473 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2456 (October 2005), LR 33:

##### **§1739. Alternative Standards for Valves in Gas/Vapor Service or in Light Liquid Service: Skip Period Leak Detection and Repair**

A. – A.1. ...

2. An owner or operator must notify the Office of Environmental Services before implementing one of the alternative work practices.

B. – B.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:439



(March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2473 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2457 (October 2005), LR 33:

#### **§1745. Reporting Requirements**

A. A semiannual report shall be submitted by owners and operators subject to the requirements of this Subchapter to the Office of Environmental Services by dates specified by the administrative authority. The report shall include the following information.

A.1. – B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2474 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2457 (October 2005), LR 33:

#### **Subchapter C. Air Emission Standards for Tanks, Surface Impoundments, and Containers**

#### **§1747. Applicability**

A. – D.2. ...

3. the owner or operator notifies the Office of Environmental Services, in writing, that hazardous waste generated by an organic peroxide manufacturing process or processes meeting the conditions of Paragraph D.1 of this Section are managed at the facility in tanks or containers meeting the conditions of Paragraph D.2 of this Section. The notification shall state the name and address of the facility and be signed and dated by an authorized representative of the facility owner or operator.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1701 (September 1998), LR 25:440 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:279 (February 2000), LR 26:2474 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2457 (October 2005), LR 33:\*\*.

#### **§1755. Standards: Tanks**

A. – E.3.c. ...

d. prior to each inspection required by Subparagraph E.3.b or c of this Section, the owner or operator shall notify the Office of Environmental Compliance in advance of each inspection to provide the administrative authority with the opportunity to have an observer present during the inspection. The owner or operator shall notify the administrative authority of the date and location of the inspection as follows:

i. ...

ii. when a visual inspection is not planned and the owner or operator could not have known about the inspection 30 calendar days before refilling the tank, the owner or operator shall notify the Office of Environmental Compliance as soon as possible, but no later than seven calendar days before refilling of the tank. This notification may be made by telephone and immediately followed by a written explanation for why the inspection is unplanned. Alternatively, written notification, including the explanation for the unplanned inspection, may be sent so that it is

received by the administrative authority at least seven calendar days before refilling the tank;

E.3.e. – F.3.b.iv. ...

c. Prior to each inspection required by Subparagraph F.3.a or F.3.b of this Section, the owner or operator shall notify the Office of Environmental Compliance in advance of each inspection to provide the administrative authority with the opportunity to have an observer present during the inspection. The owner or operator shall notify the administrative authority of the date and location of the inspection as follows:

F.3.c.i. – L.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1704 (September 1998), amended LR 25:440 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:279 (February 2000), LR 26:2474 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

#### **§1767. Reporting Requirements**

A. Each owner or operator managing hazardous waste in a tank, surface impoundment, or container exempted from using air emission controls under the provisions of LAC 33:V.1751.C shall report to the Office of Environmental Compliance each occurrence when hazardous waste is placed in the waste management unit in noncompliance with the conditions specified in LAC 33:V.1751.C.1 or 2, as applicable. Examples of such occurrences include placing in the waste management unit a hazardous waste having an average VO concentration equal to or greater than 500 ppmw at the point of waste origination or placing in the waste management unit a treated hazardous waste of which the organic content has been reduced by an organic destruction or removal process that fails to achieve the applicable conditions specified in LAC 33:V.1751.C.2.a-f. The owner or operator shall submit a written report within 15 calendar days of the time that the owner or operator becomes aware of the occurrence. The written report shall contain the EPA identification number, facility name and address, a description of the noncompliance event and the cause, the dates of the noncompliance, and the actions taken to correct the noncompliance and prevent recurrence of the noncompliance. The report shall be signed and dated by an authorized representative of the owner or operator.

B. Each owner or operator using air emission controls on a tank in accordance with the requirements LAC 33:V.1755.C shall report to the Office of Environmental Compliance each occurrence when hazardous waste is managed in the tank in noncompliance with the conditions specified in LAC 33:V.1755.B. The owner or operator shall submit a written report within 15 calendar days of the time that the owner or operator becomes aware of the occurrence. The written report shall contain the EPA identification number, facility name and address, a description of the noncompliance event and the cause, the dates of the noncompliance, and the actions taken to correct the noncompliance and prevent recurrence of the noncompliance. The report shall be signed and dated by an authorized representative of the owner or operator.

C. Each owner or operator using a control device in accordance with the requirements of LAC 33:V.1761 shall



submit a semiannual written report to the Office of Environmental Compliance, except as provided for in Subsection D of this Section. The report shall describe each occurrence during the previous six-month period when either:

C.1. – D.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1720 (September 1998), amended LR 25:442 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2474 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

## **Chapter 18. Containment Buildings**

### **§1802. Design and Operating Standards**

A. – C.3.a.iii. ...

iv. within seven days after the discovery of the condition, notify the Office of Environmental Services of the condition and, within 14 working days, provide a written notice to the administrative authority with a description of the steps taken to repair the containment building and the schedule for accomplishing the work;

b. ...

c. upon completing all repairs and cleanup, the owner or operator must notify the Office of Environmental Services in writing and provide a verification, signed by a qualified, registered professional engineer, that the repairs and cleanup have been completed according to the written plan submitted in accordance with LAC 33:V.1802.C.3.a.iv; and

C.4. – E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

## **Chapter 19. Tanks**

### **§1905. Design and Installation of New Tank Systems or Components**

A. Owners or operators of new tank systems or components must obtain and submit to the Office of Environmental Services, at the time of submittal of Part II information, a written assessment, reviewed and certified by an independent, qualified registered professional engineer, in accordance with LAC 33:V.513, attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. The assessment must show that the foundation, structural support, seams, connections and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated and corrosion protection to ensure that it will not collapse, rupture or fail. This assessment, which will be used by the administrative authority to review and approve or disapprove the acceptability of the tank system design, must include, at a minimum, the following information:

A.1. – G. ...

H. Owners or operators of new tanks systems or components subject to the accumulation time exclusion of LAC 33:V.1109.E.1 must obtain and submit to the Office of Environmental Services, prior to placing the tank system in service, a written assessment, reviewed and certified by an independent registered professional engineer, in accordance with LAC 33:V.513, attesting that the tank system has sufficient structural integrity and is acceptable for storing or treating hazardous waste. The assessment must show that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed, and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection to ensure that it will not collapse, rupture, or fail. The assessment, which will be used by the administrative authority to review the acceptability of the tank system design, must include at a minimum the requirements specified in LAC 33:V.1905.A.1-5.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 16:614 (July 1990), LR 16:683 (August 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

### **§1907. Containment and Detection of Releases**

A. – H. ...

1. the Office of Environmental Assessment must be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for a variance from secondary containment as allowed in LAC 33:V.1907.G according to the following schedule:

H.1.a. – I.5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000), amended by the Office of Environmental Assessment, LR 31:1572 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

### **§1913. Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank Systems**

A tank system or secondary containment system from which there has been a leak or spill, or that is unfit for use, must be removed from service immediately, and the owner or operator must satisfy the following requirements.

A. – D.2.b. ...

3. Within 30 days of detection of a release to the environment, a report containing the following information must be submitted to SPOC:

D.3.a. – E.4. ...

F. Certification of Major Repairs. If the owner/operator has repaired a tank system in accordance with LAC 33:V.1913.E and the repair has been extensive (e.g., installation of an internal liner; repair of a ruptured primary

containment or secondary containment vessel), the tank system must not be returned to service unless the owner/operator has obtained a certification by an independent, qualified, registered, professional engineer in accordance with LAC 33:V.513 that the repaired system is capable of handling hazardous wastes without release for the intended life of the system. This certification must be submitted to the Office of Environmental Compliance within seven days after returning the tank system to use.

[NOTE: The administrative authority may, on the basis of any information received that there is or has been a release of hazardous waste or hazardous constituents into the environment, issue an order requiring corrective action or such other response as is deemed necessary to protect human health or the environment.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 13:651 (November 1987), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000), LR 30:1673 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2457 (October 2005), LR 33:

## **Chapter 22. Prohibitions on Land Disposal**

### **Subchapter A. Land Disposal Restrictions**

#### **§2227. Treatment Standards Expressed as Specified Technologies**

A. ...

B. Any person may submit an application to the Office of Environmental Services demonstrating that an alternative treatment method can achieve a measure of performance equivalent to that achieved by methods specified in Subsections A, C, and D of this Section or specified in LAC 33:V.2299.Appendix, Table 8. The applicant must submit information demonstrating that his or her treatment method is in compliance with federal, state, and local requirements and is protective of human health and the environment. On the basis of such information and any other available information, the administrative authority may approve the use of the alternative treatment method if he or she finds that the alternative treatment method provides a measure of performance equivalent to those achieved by methods specified in Subsections A, C, and D of this Section or specified in LAC 33:V.2299.Appendix, Table 8. Any approval must be stated in writing and may contain such provisions and conditions as the administrative authority deems appropriate. The person to whom such approval is issued must comply with all limitations contained in such a determination.

C. – D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), LR 25:445 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2476 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2457 (October 2005), LR 33:

#### **§2231. Variance from a Treatment Standard**

A. – A.2.b. ...

B. Each petition must be submitted to the Office of Environmental Services for consideration in accordance with the procedures in LAC 33:V.105.H.

C. – C.2. ...

D. The EPA administrator and/or the Office of Environmental Services will give public notice of the intent to approve or deny a petition and will provide the person requesting the variance and the public, through a newspaper notice in the official state journal and the local newspaper in the affected area, the cost of which will be charged to the person requesting the variance, the opportunity to submit written comments on the request and the conditions of the variance, allowing a 30-day comment period. The notices referred to in this Section will be provided in the local newspaper in three separate issues; however, the 30-day comment or notice period shall begin with the notice in the official state journal. The administrative authority will also, in response to a request or at his or her own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the variance request. The administrative authority will give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments.) The final decision on a variance from a treatment standard will also be published.

E. – M. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:445 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2476 (November 2000), LR 27:1015 (July 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2458 (October 2005), LR 33:

#### **§2237. Exemption for Surface Impoundments Treating Hazardous Waste**

A. – A.3.c. ...

4. the owner or operator must submit to the Office of Environmental Services a written certification that the requirements of Paragraph A.3 of this Section have been met and a copy of the waste analysis plan required under Paragraph A.2 of this Section. The following certification is required.

"I certify under penalty of law that the requirements of LAC 33:V.2237.A.3 have been met for all surface impoundments being used to treat prohibited wastes. I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

B. – C.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR

17:658 (July 1991), LR 21:266 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1727 (September 1998), LR 25:447 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2476 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2458 (October 2005), LR 33:

**§2239. Procedures for Case-by-Case Extensions of an Effective Date**

A. Any person who generates, treats, stores, or disposes of a hazardous waste may submit an application to the Office of Environmental Services for an extension of the effective date of any applicable prohibition established under this Chapter. The applicant must provide the following, and in each case the burden of proof will be on the applicant:

A.1. – F. ...

G. Any person granted an extension under this Section must immediately notify the Office of Environmental Services as soon as he or she has knowledge of any change in the conditions certified in the application.

H. Any person granted an extension under this Section shall submit written progress reports at intervals designated by the Office of Environmental Services, which may not exceed six months. Such reports must describe the overall progress made toward constructing or otherwise providing alternative treatment, recovery, or disposal capacity; must identify any event that may cause or has caused a delay in the development of the capacity, and must summarize the steps taken to mitigate the delay. The administrative authority can revoke the extension at any time if the applicant does not make a good-faith effort to meet the schedule for completion, if the department denies or revokes any required permit, if conditions certified in the application change, or for any violation of the Louisiana Environmental Quality Act or regulations promulgated thereto.

I. – J. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1727 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2477 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2458 (October 2005), LR 33:

**§2241. Exemptions to Allow Land Disposal of a Prohibited Waste Except by Deep Well Injection**

A. Any person seeking an exemption to allow land disposal except by deep well injection of a prohibited hazardous waste in a particular unit or units must submit a petition to the Office of Environmental Services that meets the following requirements.

A.1. – F.5.c. ...

G. Each petition must be submitted to the Office of Environmental Services.

H. ...

I. If the owner or operator plans to make changes to the unit design, construction, or operation, such changes must be proposed in writing, and the owner or operator shall submit a demonstration to the Office of Environmental

Services at least 30 days before making the changes. The administrative authority will determine whether the proposed changes invalidate the terms of the petition and will determine the appropriate response. Any changes must be approved by the administrative authority prior to being made.

2. If the owner or operator discovers that a condition at the site that was modeled or predicted in the petition does not occur as predicted, this change must be reported, in writing, to the Office of Environmental Services within 10 days of discovery of the change. The administrative authority will determine whether the reported change from the terms of the petition requires further action, which may include termination of waste acceptance and revocation of the petition or petition modifications, or other responses.

I. ...

J. Each petition must include the following statement signed by the petitioner or a duly authorized representative and must be submitted to the Office of Environmental Services.

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

K. – Q. ...

R. As a condition of the exemption, the petitioner must submit a report to the Office of Environmental Services by March 1 of each calendar year during the term of the exemption that describes in detail the efforts undertaken during the preceding calendar year to reduce the volume and toxicity of the waste generated. The report shall provide data indicating the change in volume and toxicity of waste actually achieved during the year in comparison to previous years.

S. – T.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1727 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2477 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2458 (October 2005), LR 33:

**§2245. Generators' Waste Analysis, Recordkeeping, and Notice Requirements**

A. – E.1. ...

2. Such plan must be filed with the Office of Environmental Services, a minimum of 30 days prior to the treatment activity, with delivery verified.

E.3. – K. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR

16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266, 267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 22:1130 (November 1996), LR 23:565 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:1728 (September 1998), LR 25:447 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000), LR 26:2478 (November 2000), LR 27:295 (March 2001), LR 27:711 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2459 (October 2005), LR 33:

#### **§2246. Special Rules Regarding Wastes That Exhibit a Characteristic**

A. – C. ...

D. Wastes that exhibit a characteristic are also subject to the requirements of LAC 33:V.2245, except that once the waste is no longer hazardous, a one-time notification and certification must be placed in the generator or treaters files and sent to the Office of Environmental Services. The notification and certification must be updated if the process or operation generating the waste changes and/or if the solid waste disposal facility receiving the waste changes. However, the generator or treater need only notify the administrative authority on an annual basis if such changes occur. In such circumstances, a notification and certification must be sent to the administrative authority by the end of the calendar year, but no later than December 31.

D.1. – E. ...

1. A one-time notification, including the following information, must be submitted to the Office of Environmental Services:

E.1.a. – F.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:1730 (September 1998), LR 25:449 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000), LR 26:2478 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2459 (October 2005), LR 33:

#### **§2247. Owners or Operators of Treatment or Disposal Facilities: Testing, Waste Minimization, Recordkeeping and Notice Requirements**

A. – D. ...

E. Where the wastes are recyclable materials used in a manner constituting disposal subject to the provisions in LAC 33:V.4139.B-D regarding treatment standards and prohibition levels, the owner or operator of a treatment facility (i.e., the recycler) is not required to notify the receiving facility, in accordance with Subsection B of this Section. With each shipment of such wastes the owner or operator of the recycling facility shall submit a certification described in Subsection C of this Section and a notice that includes the information listed in Subsection B of this Section (except the manifest number) to the Office of Environmental Services. The recycling facility shall also keep records of the name and location of each entity receiving the hazardous waste-derived product.

F. – H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266, 267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 23:566 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:670 (April 1998), LR 24:1730 (September 1998), LR 25:449 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:282 (February 2000), LR 26:2478 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2459 (October 2005), LR 32:607 (April 2006), LR 33:

#### **Subchapter B. Hazardous Waste Injection Restrictions** **§2253. Procedures for Case-by-Case Extensions to an Effective Date**

A. The owner or operator of a Class I hazardous waste injection well may submit an application to the Office of Environmental Services for an extension of the effective date of any applicable prohibition established under LAC 33:V.Chapter 22.Subchapter A according to the procedures of LAC 33:V.2239.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2479 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2460 (October 2005), LR 33:

#### **§2271. Exemptions to Allow Land Disposal of a Prohibited Waste by Deep Well Injections**

A. Any person seeking an exemption to allow land disposal by deep well injection of a prohibited hazardous waste in a particular injection well or wells must submit a petition to the Office of Environmental Services that does the following.

A.1. – G.2. ...

H. Any person who has been granted an exemption pursuant to this Section may submit a petition to the Office of Environmental Services for reissuance of the exemption to include an additional prohibited waste or wastes or to modify any conditions placed on the exemption by the administrative authority. The administrative authority may reissue the exemption if the petitioner complies with the requirements of Subsections A-F of this Section.

I. Any person who has been granted an exemption pursuant to this Section may submit a petition to the Office of Environmental Services to modify an exemption to include an additional nonprohibited hazardous waste or wastes. The administrative authority may grant the modification if he or she determines, to a reasonable degree of certainty, that the additional waste or wastes will behave hydraulically and chemically in a manner similar to previously included wastes and that it will not interfere with the containment capability of the injection zone.

J. – U.4.c. ...

5. The permittee shall submit a request to the Office of Environmental Services for reissuance of the exemption at least 180 days prior to the end of the term. If the applicant submits a timely and technically complete application, and

the administrative authority, through no fault of the applicant, fails to act on the application for reissuance on or before the expiration date of the existing exemption, the permittee may, with the written approval of the administrative authority, continue to operate under the terms and conditions of the existing exemption which shall remain in effect until final action on the application is taken by the administrative authority.

V. Corrective Action for Wells in the Area of Review

1. The petitioner shall submit a plan to the Office of Environmental Assessment outlining the protocol used to:

V.1.a. – Y. ...

Z. As a condition of the exemption, the petitioner must submit a report to the Office of Environmental Services by March 1 of each calendar year during the term of the exemption, describing in detail the efforts undertaken during the preceding calendar year to reduce the volume and toxicity of the waste generated. The report shall provide data indicating the change in volume and toxicity of waste actually achieved during the year in comparison to previous years.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended LR 23:299 (March 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2479 (November 2000), LR 30:1674 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2460 (October 2005), LR 33:

**§2273. Petition for Determinations Concerning No Alternatives to Land Disposal of a Prohibited Waste by Deep Well Injection**

A. – B. ...

C. Any person seeking a determination of no alternatives must submit a petition to the Office of Environmental Services that does the following:

C.1. – D. ...

E. Except as otherwise provided in this Section, if a hazardous waste not subject to an existing determination is to be injected, a petition that addresses such hazardous waste must be submitted to the Office of Environmental Assessment and a determination of no alternatives be made prior to this waste being injected. The provisions contained in Subsection J of this Section, shall apply with respect to such hazardous waste.

1. – 2. ...

F. If a new injection well(s) is to be used to inject a hazardous waste subject to an existing approved determination under this Section, a new petition is not necessary, provided the owner or operator submits a notice to the Office of Environmental Assessment. The notice shall include a copy of the EPA exemption approval for the new well(s) and a copy of the permit issued by the Louisiana Department of Natural Resources, Office of Conservation for the new well(s).

G. – L.1. ...

2. The petitioner shall submit a petition to the Office of Environmental Services for reissuance of a determination at least 180 days prior to the end of the term. If the petitioner submits a timely and technically complete petition and the administrative authority, through no fault of the petitioner,

fails to act on the petition for reissuance on or before the expiration date of the existing determination, the petitioner may, with the written approval of the administrative authority, continue to operate under the terms and conditions of the existing determination, which shall remain in effect until final action on the petition is taken by the administrative authority and all subsequent administrative and/or judicial appeal processes have been completed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:1801 (October 1999), amended LR 26:2479 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2460 (October 2005), LR 33:

**Chapter 23. Waste Piles**

**§2303. Design and Operating Requirements**

A. – K.4. ...

a. notify the Office of Environmental Services of the leak in writing within seven days after detecting the leak; and

K.4.b. – L. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 20:1000 (September 1994), LR 21:266, 267 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2480 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

**§2306. Response Actions**

A. – B. ...

1. notify the Office of Environmental Services in writing of the exceedence within seven days of the determination;

2. submit a preliminary written assessment to the Office of Environmental Services within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

3. – 5. ...

6. within 30 days after the notification that the action leakage rate has been exceeded, submit to the Office of Environmental Services the results of the analyses specified in LAC 33:V.2306.B.3-5, of actions taken, and of remedial actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the administrative authority a report summarizing the results of any remedial actions taken and actions planned.

C. – C.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2480 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

**§2307. Inspection of Synthetic Liners**

A. The facility must provide the Office of Environmental Services with 30 days advance notice of the initial liner

installation to allow the administrative authority the opportunity to inspect the liner and its installation.

B. The liner must be inspected on a regular basis by removing the waste pile. The facility must notify the Office of Environmental Services at least 30 days prior to the inspection to allow the administrative authority the opportunity to inspect the liner. If deterioration, a crack, or other condition is identified that is causing or could cause a leak, the owner or operator must:

1. – 3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2480 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

## **Chapter 25. Landfills**

### **§2508. Response Actions**

A. – B. ...

1. notify the Office of Environmental Services in writing of the exceedence within seven days of the determination;

2. submit a preliminary written assessment to the Office of Environmental Services, within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

3. – 5. ...

6. within 30 days after the notification that the action leakage rate has been exceeded, submit to the Office of Environmental Services the results of the analyses specified in LAC 33:V.2508.B.3-5, the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the administrative authority a report summarizing the results of any remedial actions taken and remedial actions planned.

C. – C.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2481 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2461 (October 2005), LR 33:

### **§2521. Closure and Post-Closure Care**

A. – B.6. ...

C. During the post-closure care period, if liquid leaks into a leak detection system installed under LAC 33:V.3305, the owner or operator must notify the Office of Environmental Services of the leak in writing within seven days after detecting the leak.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning

Division, LR 26:2481 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

## **Chapter 27. Land Treatment**

### **§2707. Treatment Demonstration**

A. – D.2.b. ...

3. When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, he must submit to the Office of Environmental Services a certification, signed by a person authorized to sign a permit application or report under LAC 33:V.507 and 509, that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting such tests or analyses. The owner or operator must also submit all data collected during the field tests or laboratory analyses within 90 days of completion of those tests or analyses unless the administrative authority approves a later date.

4. – 4.c. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2481 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2461 (October 2005), LR 33:

### **§2711. Unsaturated Zone Monitoring**

An owner or operator subject to this Chapter must establish an unsaturated zone monitoring program to discharge the following responsibilities.

A. – G. ...

1. notify the Office of Environmental Services of this finding in writing within seven days. The notification must indicate what constituents have shown statistically significant increases;

2. within 90 days, submit to the Office of Environmental Services an application for a permit modification to modify the operating practices at the facility in order to maximize the success of degradation, transformation, or immobilization processes in the treatment zone.

H. ...

1. notify the Office of Environmental Services in writing within seven days of determining a statistically significant increase below the treatment zone that he intends to make a determination under this Subsection;

2. within 90 days, submit a report to the Office of Environmental Services demonstrating that a source other than the regulated units caused the increase or that the increase resulted from error in sampling, analysis, or evaluation;

3. within 90 days, submit to the Office of Environmental Services an application for a permit modification to make any appropriate changes to the unsaturated zone monitoring program at the facility; and

4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2481 (November 2000), amended by the Office of

the Secretary, Legal Affairs Division, LR 31:2461 (October 2005), LR 33:

### **§2719. Closure and Post-Closure Care**

A. – A.8. ...

B. For the purpose of complying with LAC 33:V.3517, when closure is completed, the owner or operator may submit to the Office of Environmental Services certification by an independent qualified soil scientist, in lieu of an independent registered professional engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

C. – C.7. ...

D. The owner or operator is not subject to regulation under Paragraph A.8 and Subsection C of this Section if the administrative authority finds that the level of hazardous constituents in the treatment zone soil does not exceed the background value of those constituents by an amount that is statistically significant when using the test specified in Paragraph D.3 of this Section. The owner or operator may submit such a demonstration to the Office of Environmental Services at any time during the closure or post-closure care periods. For the purposes of this Subsection:

1. – 4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 14:790 (November 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2482 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2461 (October 2005), LR 33:

## **Chapter 28. Drip Pads**

### **§2803. Assessment of Existing Drip Pad Integrity**

A. ...

B. The owner or operator must develop a written plan for upgrading, repairing, and modifying the drip pad to meet the requirements of LAC 33:V.2805.C and submit the plan to the Office of Environmental Services no later than two years before the date that all repairs, upgrades, and modifications will be complete. This written plan must describe all changes to be made to the drip pad in sufficient detail to document compliance with all the requirements of LAC 33:V.2805 and must document the age of the drip pad to the extent possible. The plan must be reviewed and certified by an independent qualified, registered professional engineer.

C. Upon completion of all upgrades, repairs, and modifications, the owner or operator must submit to the Office of Environmental Services the as-built drawings for the drip pad together with a certification by an independent qualified, registered professional engineer attesting that the drip pad conforms to the drawings.

D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2482 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2462 (October 2005), LR 33:

### **§2805. Design and Operating Requirements**

Owners and operators of drip pads must ensure that the pads are designed, installed, and operated in accordance with Subsection A or C of this Section.

A. – N.2. ...

3. Upon completing all repairs and cleanup, the owner or operator must notify SPOC in writing and provide a certification, signed by an independent qualified, registered professional engineer, that the repairs and cleanup have been completed according to the written plan submitted in accordance with Subparagraph N.1.d of this Section.

O. – P. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2482 (November 2000), LR 30:1674 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2462 (October 2005), LR 33:

## **Chapter 29. Surface Impoundments**

### **§2903. Design and Operating Requirements**

[Comment: The permit applicant must submit detailed plans and specifications accompanied by an engineering report that must collectively include the information itemized and address the following in addition to the design and operating requirements:

(1) a description of the proposed maintenance and repair procedures;

(2) a description of the operating procedures that will ensure compliance with this Section; and

(3) a certification by a qualified engineer that states that the facilities comply with the applicable design requirements in this Section. The owner or operator of a new facility must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications.]

A. – I.4. ...

a. notify the Office of Environmental Services of the leak in writing within seven days after detecting the leak; and

I.4.b. – L.2.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266, 267 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2482 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2462 (October 2005), LR 33:

### **§2906. Response Actions**

A. – B. ...

1. notify the Office of Environmental Services in writing of the exceedence within seven days of the determination;

2. submit a preliminary written assessment to the Office of Environmental Services within 14 days of the

determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

3. – 5. ...

6. within 30 days after the notification that the action leakage rate has been exceeded, submit to the Office of Environmental Services the results of the analyses specified in Paragraphs B.3-5 of this Section, the results of actions taken, and remedial actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the Office of Environmental Services a report summarizing the results of any remedial actions taken and actions planned.

C. – C.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2483 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2462 (October 2005), LR 33:

### **Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces**

#### **§3005. Permit Standards for Burners**

A. – D.4.b. ...

c. For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow the owner or operator to analyze samples, compute data, and submit to the Office of Environmental Services the trial burn results, and for the administrative authority to modify the facility permit to reflect the trial burn results, the administrative authority will specify the operating requirements most likely to ensure compliance with the emission standards of LAC 33:V.3009-3015, based on engineering judgment.

D.4.d. – I. ...

[NOTE: Parts of this Section were previously promulgated in LAC 33:V.4142 which has been repealed.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:822 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2483 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2463 (October 2005), LR 33:

#### **§3007. Interim Status Standards for Burners**

A. – B.5.c. ...

6. Public Notice Requirements at Precompliance. On or before August 21, 1991, the owner or operator must submit a notice with the following information for publication in a major local newspaper of general circulation and send a copy of the notice to the appropriate units of state and local government. The owner or operator must provide to the Office of Environmental Services with the certification of precompliance evidence of submitting the notice for publication. The notice, which shall be entitled "Notice of Certification of Precompliance with Hazardous Waste Burning Requirements of LAC 33:V.3007.B," must include:

B.6.a. – C.1.m. ...

2. Prior Notice of Compliance Testing. At least 30 days prior to the compliance testing required by Paragraph C.3 of this Section, the owner or operator shall notify the Office of Environmental Services and submit the following information:

2.a. – 7.b.iii. ...

8. Revised Certification of Compliance. The owner or operator may submit at any time a revised certification of compliance (recertification of compliance) to the Office of Environmental Services under the following procedures:

a. ...

b. at least 30 days prior to first burning hazardous waste under operating conditions that exceed those established under a current certification of compliance, the owner or operator shall notify the Office of Environmental Services and submit the following information:

i. – iii. ...

iv. complete emissions testing protocol for any pretesting and for a new compliance test to determine compliance with the applicable emissions standards of LAC 33:V.3009-3015 when operating under revised operating conditions. The protocol shall include a schedule of pretesting and compliance testing. If the owner and operator revises the scheduled date for the compliance test, he/she shall notify the Office of Environmental Services in writing at least 30 days prior to the revised date of the compliance test;

c. ...

d. submit to the Office of Environmental Services a revised certification of compliance under Paragraph C.4 of this Section.

D. Periodic Recertifications. The owner or operator must conduct compliance testing and submit to the Office of Environmental Services a recertification of compliance under provisions of Subsection C of this Section within three years from submitting the previous certification or recertification. If the owner or operator seeks to recertify compliance under new operating conditions, he/she must comply with the requirements of Paragraph C.8 of this Section.

E. – L. ...

[NOTE: Parts of this Section were previously promulgated in LAC 33:V.4142 which has been repealed.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:822 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1740 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2483 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2463 (October 2005), LR 33:

#### **§3009. Standards to Control Organic Emissions**

A boiler or industrial furnace burning hazardous waste must be designed, constructed, and maintained so that, when operated in accordance with operating requirements specified under LAC 33:V.3005.E, it will meet the following standards.

A. – A.2. ...



3. Dioxin-Listed Waste. A boiler or industrial furnace burning hazardous waste containing (or derived from) EPA Hazardous Waste Numbers F020, F021, F022, F023, F026, or F027 must achieve a DRE of 99.9999 percent for each POHC designated (under Subparagraph A.1.b of this Section) in its permit. This performance must be demonstrated on POHCs that are more difficult to burn than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. The DRE is determined for each POHC from the equation in Paragraph A.1 of this Section. In addition, the owner or operator of the boiler or industrial furnace must notify the Office of Environmental Services of his intent to burn EPA Hazardous Waste Numbers F020, F021, F022, F023, F026, or F027.

A.4. – I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:823 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1741 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2484 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2463 (October 2005), LR 33:

### **Chapter 31. Incinerators**

#### **§3103. General Requirements**

A. The operator of a hazardous waste incinerator shall secure a permit from the Office of Environmental Services.

[Comment: The permit application must also include the information required in LAC 33:V.3115.]

B. – D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2484 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2464 (October 2005), LR 33:

#### **§3115. Incinerator Permits for New or Modified Facilities**

A. – B.13.j. ...

14. the applicant must submit to the Office of Environmental Services a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all the determinations required in Paragraph B.13 of this Section. This submission shall be made within 90 days of completion of the trial burn, or later if approved by the administrative authority;

15. all data collected during any trial burn must be submitted to the Office of Environmental Services following the completion of the trial burn;

B.16. – C.2. ...

D. For the purposes of determining feasibility of compliance with the performance standards of LAC 33:V.3111 and of determining adequate operating conditions under LAC 33:V.3117, the applicant for a permit for an existing hazardous waste incinerator must prepare and submit to the Office of Environmental Services a trial burn plan and perform a trial burn in accordance with LAC 33:V.529.B and Paragraphs B.1-11 and 13-16 of this Section

or, instead, submit other information as specified in LAC 33:V.529.C. The administrative authority must announce his or her intention to approve the trial burn plan in accordance with the timing and distribution requirements of Paragraph B.12 of this Section. The contents of the notice must include: the name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the permitting agency; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for agency approval of the plan and the time period during which the trial burn would be conducted. Applicants submitting information under LAC 33:V.529.A are exempt from compliance with LAC 33:V.3111 and 3117 and, therefore, are exempt from the requirements to conduct a trial burn. Applicants who submit trial burn plans and receive approval before submission of a permit application must complete the trial burn and submit the results, specified in Paragraph B.13 of this Section, with Part II of the permit application. If completion of this process conflicts with the date set for submission of the Part II application, the applicant must contact the administrative authority to establish a later date for submission of the Part II application or the trial burn results. Trial burn results must be submitted prior to issuance of a permit. When the applicant submits a trial burn plan with Part II of the permit application, the administrative authority will specify a time period prior to permit issuance in which the trial burn must be conducted and the results submitted.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 22:828, 835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:683 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2484 (November 2000), LR 27:302 (March 2001), LR 29:324 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2464 (October 2005), LR 33:

### **Chapter 33. Ground Water Protection**

#### **§3317. Detection Monitoring Program**

An owner or operator required to establish a detection monitoring program under this Subpart must, at a minimum, discharge the following responsibilities.

A. – G.3. ...

4. Within 90 days, submit to the Office of Environmental Services an application for a permit modification to establish a compliance monitoring program meeting the requirements of LAC 33:V.3319. The application must include the following information:

a. – d. ...

5. Within 180 days, submit to the Office of Environmental Services:

5.a. – 6. ...

a. notify the Office of Environmental Services in writing within seven days of determining statistically significant evidence of contamination at the compliance point that he or she intends to make a demonstration under this Paragraph;

b. within 90 days, submit a report to the Office of Environmental Services that demonstrates that a source other than a regulated unit caused the contamination or that the contamination resulted from error in sampling, analysis, or evaluation;

G.6.c. – H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 10:496 (July 1984), LR 16:399 (May 1990), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2485 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2464 (October 2005), LR 33:

### **§3319. Compliance Monitoring Program**

An owner or operator required to establish a compliance monitoring program under this Chapter must, at a minimum, discharge the following responsibilities.

A. – H. ...

1. notify the Office of Environmental Services of this finding in writing within seven days. The notification must indicate what concentration limits have been exceeded; and

2. submit to the Office of Environmental Services an application for a permit modification to establish a corrective action program meeting the requirements of LAC 33:V.3321 within 180 days, or within 90 days if an engineering feasibility study has been previously submitted to the administrative authority under LAC 33:V.3317.H.5. The application must at a minimum include the following information:

H.2.a. – I. ...

1. notify the Office of Environmental Services in writing within seven days that he intends to make a demonstration under this Paragraph;

2. within 90 days, submit a report to the Office of Environmental Services that demonstrates that a source other than a regulated unit caused the standard to be exceeded or that the apparent noncompliance with the standards resulted from error in sampling, analysis or evaluation;

3. within 90 days, submit to the Office of Environmental Services an application for a permit modification to make any appropriate changes to the compliance monitoring program at the facility; and

4. ...

J. If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of this Section, he must, within 90 days, submit to the Office of Environmental Services an application for a permit modification to make any appropriate changes to the program.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:399 (May 1990), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2485 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2464 (October 2005), LR 33:

### **§3321. Corrective Action Program**

An owner or operator required to establish a corrective action program under this Subpart must, at a minimum, discharge the following responsibilities:

A. – F. ...

G. the owner or operator must report in writing to the Office of Environmental Services on the effectiveness of the corrective action program. The owner or operator must submit these reports semiannually; and

H. if the owner or operator determines that the corrective action program no longer satisfies the requirements of this Section, he must, within 90 days, submit to the Office of Environmental Services an application for a permit modification to make any appropriate changes to the program.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2485 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2465 (October 2005), LR 33:

## **Chapter 35. Closure and Post-Closure**

### **§3503. Notification of Intention to Close a Facility**

A. At least 180 days prior to closure, the operator must notify the Office of Environmental Services of intention to close and supply the following information:

1. – 4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2486 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2465 (October 2005), LR 33:

## **Subchapter A. Closure Requirements**

### **§3505. Closure Procedures**

A. ...

B. If the request is made to change the closure plan, the operator will submit revisions to the plan to the Office of Environmental Services, supported by necessary scientific and engineering data to permit evaluation by the department, and the procedures established in permit process will be followed in evaluating and approving the requested changes.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2486 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2465 (October 2005), LR 33:

### **§3511. Closure Plan; Amendment of Plan**

A. – B.8. ...

C. Amendment of Plan. The owner or operator must submit to the Office of Environmental Services a written notification of or request for a permit modification to authorize a change in operating plans, facility design, or the

approved closure plan in accordance with the applicable procedures in LAC 33:V.Chapters 3 and 7. The written notification or request must include a copy of the amended closure plan for review or approval by the administrative authority.

1. The owner or operator may submit a written notification or request to the Office of Environmental Services for a permit modification to amend the closure plan at any time prior to the notification of partial or final closure of the facility.

2. – 2.c. ...

3. The owner or operator must submit to the Office of Environmental Services a written request for a permit modification including a copy of the amended closure plan for approval at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred that has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator must request a permit modification no later than 30 days after the unexpected event. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous waste at closure and is not otherwise required to prepare a contingent closure plan under LAC 33:V.2911.D or 2315.D must submit an amended closure plan to the Office of Environmental Services no later than 60 days from the date that the owner or operator or administrative authority determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of LAC 33:V.2521, or no later than 30 days from that date if the determination is made during partial closure or final closure. The administrative authority will approve, disapprove, or modify this amended plan in accordance with the procedures in LAC 33:V.Chapters 3 and 7. In accordance with LAC 33:V.311, the approved closure plan will become a condition of any hazardous waste permit issued.

4. – 5. ...

#### D. Notification of Partial Closure and Final Closure

1. The owner or operator must notify the Office of Environmental Services in writing at least 60 days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, land treatment or landfill unit, or final closure of a facility with such a unit. The owner or operator must notify the Office of Environmental Services in writing at least 45 days prior to the date on which he expects to begin final closure of a facility with only treatment or storage tanks, container storage, or incinerator units to be closed. The owner or operator must notify the Office of Environmental Services in writing at least 45 days prior to the date on which he expects to begin partial or final closure of a boiler or industrial furnace, whichever is earlier.

D.2. – E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 14:791 (November 1988), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 17:478 (May 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:480 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2486 (November 2000), amended by the Office of

the Secretary, Legal Affairs Division, LR 31:2465 (October 2005), LR 33:

### **§3513. Closure; Time Allowed for Closure**

A. – E. ...

1. Submit to the Office of Environmental Services, with the request to modify the permit:

1.a. – 7.e. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 17:478 (May 1991), LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2486 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2466 (October 2005), LR 33:

### **§3517. Certification of Closure**

A. Within 60 days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit, and within 60 days of the completion of final closure, the owner or operator must submit to the Office of Environmental Services, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the administrative authority upon request until he releases the owner or operator from the financial assurance requirements for closure under LAC 33:V.3707.

B. Survey Plat. No later than the submission of the certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Office of Environmental Services a survey plat indicating the location and dimensions of landfills cells or other hazardous waste disposal units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority, or the authority with jurisdiction over local land use, must contain a note, prominently displayed, that states the owner's or operator's obligation to restrict disturbance of the hazardous waste disposal unit in accordance with the applicable Chapter 35 regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2487 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2466 (October 2005), LR 33:

### **Subchapter B. Post-Closure Requirements**

#### **§3523. Post-Closure Plan, Amendment of Plan**

A. Written Plan. The owner or operator of a hazardous waste disposal unit must have a written post-closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the hazardous wastes at partial or final

closure are required by LAC 33:V.2911.D and 2315.C to have contingent post-closure plans. Owners or operators of surface impoundments and waste piles not otherwise required to prepare contingent post-closure plans under LAC 33:V.2315.C and 2911.D must submit a post-closure plan to the Office of Environmental Services within 90 days from the date that the owner or operator or administrative authority determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of LAC 33:V.3519-3527. The plan must be submitted with the permit application, in accordance with LAC 33:V.517.P, and approved by the administrative authority as part of the permit issuance procedures under these regulations. In accordance with LAC 33:V.311 the approved post-closure plan will become a condition of any hazardous waste permit issued.

B. – C. ...

D. Amendment of Plan. The owner or operator must submit to the Office of Environmental Services a written notification of or request for a permit modification to authorize a change in the approved post-closure plan in accordance with the applicable requirements of LAC 33:V.Chapters 3 and 7. The written notification or request must include a copy of the amended post-closure plan for review or approval by the administrative authority.

1. The owner or operator may submit a written notification or request to the Office of Environmental Services for a permit modification to amend the post-closure plan at any time during the active life of the facility or during the post-closure care period.

2. – 2.d. ...

3. The owner or operator must submit a written request for a permit modification at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred that has affected the post-closure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous waste at a closure and is not otherwise required to submit a contingent post-closure plan under LAC 33:V.2911.D and 2315.C must submit a post-closure plan to the Office of Environmental Services no later than 90 days after the date that the owner or operator or administrative authority determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of LAC 33:V.2521. The administrative authority will approve, disapprove, or modify this plan in accordance with the procedures in LAC 33:V.Chapters 3 and 7. In accordance with LAC 33:V.311, the approved post-closure plan will become a permit condition.

4. ...

E. Certification of Completion of Post-Closure Care. No later than 60 days after completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator must submit to the Office of Environmental Services, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the administrative authority upon

request until he releases the owner or operator from the financial assurance requirements for post-closure care under LAC 33:V.3711.I.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 14:791 (November 1988), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:480 (March 1999), repromulgated LR 25:856 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2487 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2466 (October 2005), LR 33:

### **§3525. Post-Closure Notices**

A. No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Office of Environmental Services a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location, and quantity of the hazardous wastes to the best of his knowledge and in accordance with any records he has kept.

B. – C.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 18:1256 (November 1992), LR 23:568 (May 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2488 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2467 (October 2005), LR 33:

### **§3527. Certification of Completion of Post-Closure Care**

A. No later than 60 days after completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator must submit to the Office of Environmental Services, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the administrative authority upon request until he releases the owner or operator from the financial assurance requirements for post-closure care under LAC 33:V.3711.I.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2488 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2467 (October 2005), LR 33:

## Chapter 37. Financial Requirements

### Subchapter A. Closure Requirements

#### §3707. Financial Assurance for Closure

An owner or operator of each facility must establish financial assurance for closure of the facility. Under this Part, the owner or operator must choose from the options as specified in Subsections A-F of this Section, which choice the administrative authority must find acceptable based on the application and the circumstances.

##### A. Closure Trust Fund

1. An owner or operator may satisfy the requirements of this Part by establishing a closure trust fund that conforms to the requirements of this Subpart, and submitting an originally signed duplicate of the trust agreement to the Office of Environmental Services. An owner or operator of a new facility must submit the originally signed duplicate of the trust agreement to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

2. – 6. ...

7. If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Office of Environmental Services for release of the amount in excess of the current closure cost estimate.

8. If an owner or operator substitutes other financial assurance as specified in this Part for all or part of the trust fund, he may submit a written request to the Office of Environmental Services for release of the amount in excess of the current closure cost estimate covered by the trust fund.

9. – 11.b. ...

##### B. Surety Bond Guaranteeing Payment into a Closure Trust Fund

1. An owner or operator may satisfy the requirements of this Part by obtaining a surety bond that conforms to the requirements of this Paragraph and submitting the bond to the Office of Environmental Services. An owner or operator of a new facility must submit the bond to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, and approved by the administrative authority.

2. – 6. ...

7. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

8. – 9. ...

##### C. Surety Bond Guaranteeing Performance of Closure

1. An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this Subsection and submitting the bond to the Office of Environmental Services. An owner or operator of a new facility must submit the bond to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, and approved by the administrative authority.

2. – 6. ...

7. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Part. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

8. – 10. ...

##### D. Closure Letter of Credit

1. An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Subsection and submitting the letter to the Office of Environmental Services. An owner or operator of a new facility must submit the letter of credit to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The letter of credit must be effective before the initial receipt of hazardous waste. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

2. – 6. ...

7. Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

8. – 10.b. ...

##### E. Closure Insurance

1. An owner or operator may satisfy the requirements of this Part by obtaining closure insurance that conforms to the requirements of this Paragraph and submitting a certificate of such insurance to the Office of Environmental

Services. An owner or operator of a new facility must submit the certificate of insurance to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed to transact the business of insurance, or be eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and authorized to transact business in Louisiana.

2. – 8.e ...

9. Whenever the current closure cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

E.10. – F.2 ...

3. To demonstrate that he meets this test, the owner or operator must submit the following items to the Office of Environmental Services:

a. – c.ii ...

4. An owner or operator of a new facility must submit the items specified in Paragraph F.3 of this Section to the Office of Environmental Services at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal.

5. After the initial submission of items specified in Paragraph F.3 of this Section, the owner or operator must send updated information to the Office of Environmental Services within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in Paragraph F.3 of this Section.

6. If the owner or operator no longer meets the requirements of Paragraph F.1 of this Section, he must send notice to the Office of Environmental Services of intent to establish alternate financial assurance as specified in this Part. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

F.7. – I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1511 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2488 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2467 (October 2005), LR 33:

## **Subchapter B. Post-Closure Requirements**

### **§3711. Financial Assurance for Post-Closure Care**

The owner or operator of a hazardous waste management unit subject to the requirements of LAC 33:V.3709 must establish financial assurance for post-closure care in accordance with the approved post-closure plan for the facility 60 days prior to the initial receipt of hazardous waste or the effective date of the regulation, whichever is later. Under this Section, the owner or operator must choose from the options as specified in Subsections A-F of this Section, which choice the administrative authority must find acceptable based on the application and the circumstances.

#### **A. Post-Closure Trust Fund**

1. An owner or operator may satisfy the requirements of this Part by establishing a post-closure trust fund that conforms to the requirements of this Paragraph and submitting an originally signed duplicate of the trust agreement to the Office of Environmental Services. An owner or operator of a new facility must submit the originally signed duplicate of the trust agreement to the administrative authority at least 60 days before the date on which hazardous waste is first received for disposal. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

2. – 6. ...

7. During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current post-closure cost estimate, the owner or operator may submit a written request to the Office of Environmental Services for release of the amount in excess of the current post-closure cost estimate.

8. If an owner or operator substitutes other financial assurance as specified in this Part for all or part of the trust fund, he may submit a written request to the Office of Environmental Services for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.

9. – 12.b. ...

#### **B. Surety Bond Guaranteeing Payment into a Post-Closure Trust Fund**

1. An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this Subsection and submitting the bond to the Office of Environmental Services. An owner or operator of a new facility must submit the bond to the administrative authority at least 60 days before the date on which hazardous waste is first received for disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, and approved by the administrative authority.

2. – 6. ...

7. Whenever the current post-closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Office of Environmental

Services or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current post-closure cost estimate decreases, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

8. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator, and to the Office of Environmental Services. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts.

9. ...

#### C. Surety Bond Guaranteeing Performance of Post-Closure Care

1. An owner or operator of a facility that has been issued a standard permit may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this Subsection and by submitting the bond to the Office of Environmental Services. An owner or operator of a new facility must submit the bond to the administrative authority at least 60 days before the date on which hazardous waste is first received for disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, and approved by the administrative authority.

2. – 6. ...

7. Whenever the current post-closure cost estimate increases to an amount greater than the penal sum during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Part. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

8. ...

9. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Office of Environmental Services. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts.

10. – 11. ...

#### D. Post-Closure Letter of Credit

1. An owner or operator may satisfy the requirements of this Part by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Paragraph and by submitting the letter to the Office of Environmental Services. An owner or operator of a new facility must submit the letter of credit to the administrative authority at least 60 days before the date on which hazardous waste is first received for disposal. The letter of credit must be effective before this initial receipt of hazardous waste. The issuing institution must be an entity that has the authority to issue

letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

2. – 6. ...

7. Whenever the current post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current post-closure cost estimate and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

8. – 9. ...

10. If the owner or operator does not establish alternate financial assurance as specified in this Part and obtain written approval of such alternate assurance from the administrative authority within 90 days after receipt by both the owner or operator and the Office of Environmental Services of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the administrative authority will draw on the letter of credit. The administrative authority may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the administrative authority will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this Part and obtain written approval of such assurance from the administrative authority.

11. – 11.b. ...

#### E. Post-Closure Insurance

1. An owner or operator may satisfy the requirements of this Part by obtaining post-closure insurance that conforms to the requirements of this Paragraph and submitting a certificate of such insurance to the Office of Environmental Services. An owner or operator of a new facility must submit the certificate of insurance to the administrative authority at least 60 days before the date on which hazardous waste is first received for disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed to transact the business of insurance, or be eligible to provide insurance as an excess or surplus lines insurer in one or more states, and authorized to transact business in Louisiana.

2. – 7. ...

8. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Office of Environmental Services. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the administrative authority and the owner or operator, as

evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

a. – e. ...

9. Whenever the current post-closure cost estimate increases to an amount greater than the face amount of the policy during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the face amount may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

E.10. – F.2. ...

3. To demonstrate that he meets this test, the owner or operator must submit the following items to the Office of Environmental Services:

a. – c.ii. ...

4. An owner or operator of a new facility must submit the items specified in Paragraph F.3 of this Section to the Office of Environmental Services at least 60 days before the date on which hazardous waste is first received for disposal.

5. After the initial submission of items specified in Paragraph F.3 of this Section, the owner or operator must send updated information to the Office of Environmental Services within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in Paragraph F.3 of this Section.

6. If the owner or operator no longer meets the requirements of Paragraph F.1 of this Section, he must send notice to the Office of Environmental Services of intent to establish alternate financial assurance as specified in this Part. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

F.7. – I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 14:791 (November 1988), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1512 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2490 (November 2000), amended by the Office of Environmental Assessment, LR 31:1572 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2469 (October 2005), LR 33:

#### **Subchapter D. Insurance Requirements**

##### **§3715. Liability Requirements**

A. – A.1. ...

a. Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a certificate of liability

insurance. The wording of the endorsement must be identical to the wording specified in LAC 33:V.3719.I. The wording of the certificate of insurance must be identical to the wording specified in LAC 33:V.3719.J. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Office of Environmental Services. If requested by the administrative authority, the owner or operator must provide a signed duplicate original of the insurance policy. An owner or operator of a new facility must submit the signed duplicate original of the Hazardous Waste Facility Liability Endorsement or the certificate of liability insurance to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste.

1.b. – 6. ...

7. An owner or operator shall notify the Office of Environmental Services in writing within 30 days whenever:

A.7.a. – B.1. ...

a. Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a certificate of liability insurance. The wording of the endorsement must be identical to the wording specified in LAC 33:V.3719.I. The wording of the certificate of insurance must be identical to the wording specified in LAC 33:V.3719.J. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Office of Environmental Services. If requested by the administrative authority, the owner or operator must provide a signed duplicate original of the insurance policy. An owner or operator of a new facility must submit the signed duplicate original of the Hazardous Waste Facility Liability Endorsement or the certificate of liability insurance to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste.

1.b. – 6. ...

7. An owner or operator shall notify the Office of Environmental Services in writing within 30 days whenever:

B.7.a. – C. ...

D. Adjustments by the Administrative Authority. If the administrative authority determines that the levels of financial responsibility required by Subsection A or B of this Section are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the administrative authority may adjust the level of financial responsibility required by Subsections A and B of this Section as may be necessary to protect human health and the environment. This adjusted level will be based on the administrative authority's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the administrative authority determines that there is a significant risk to human health and the environment from non-sudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, landfill, or land treatment facility, he may require that an owner or operator of the facility comply with Subsection B of this Section. An owner



or operator must furnish to the Office of Environmental Services, within a reasonable time, any information that the administrative authority requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustment of the level or type of coverage for a facility that has a permit will be treated as a permit modification under LAC 33:V.321.

E. – F.2. ...

3. To demonstrate that he meets this test, the owner or operator must submit the following three items to the Office of Environmental Services:

a. – c.ii. ...

4. An owner or operator of a new facility must submit the items specified in Paragraph F.3 of this Section to the Office of Environmental Services at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal.

5. ...

6. If the owner or operator no longer meets the requirements of Paragraph F.1 of this Section, he must obtain insurance, a letter of credit, a surety bond, a trust fund, or a guarantee for the entire amount of required liability coverage as specified in this Section. Evidence of liability coverage must be submitted to the Office of Environmental Services within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

F.7. – G.3. ...

H. Letter of Credit for Liability Coverage

1. An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Subsection and submitting a copy of the letter of credit to the Office of Environmental Services.

2. – 5. ...

I. Surety Bond for Liability Coverage

1. An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this Subsection and submitting a copy of the bond to the Office of Environmental Services.

2. – 4. ...

J. Trust Fund for Liability Coverage

1. An owner or operator may satisfy the requirements of this Section by establishing a trust fund that conforms to the requirements of this Paragraph and submitting an originally signed duplicate of the trust agreement to the Office of Environmental Services.

J.2. – K. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:686 (July 1985), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:399 (May 1990), LR 18:723 (July 1992), repromulgated LR 19:486 (April 1993), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1513 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2492 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2471 (October 2005), LR 33:

## **Subchapter E. Incapacity Regulations**

### **§3717. Incapacity of Owners or Operators, Guarantors, or Financial Institutions**

A. An owner or operator must notify the Office of Environmental Services by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in LAC 33:V.3707.F and 3711.F must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (see LAC 33:V.3719.H).

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2493 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2472 (October 2005), LR 33:

## **Subchapter F. Financial and Insurance Instruments**

### **§3719. Wording of the Instruments**

A. – C. ...

PERFORMANCE BOND

\*\*\*

[See Prior Text in Performance Bond]

D. Letter of Credit. A letter of credit, as specified in LAC 33:V.3707.D or 3711.D or 4403.C or 4407.C must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

IRREVOCABLE STANDBY LETTER OF CREDIT

Secretary

Louisiana Department of Environmental Quality

Post Office Box 4313

Baton Rouge, Louisiana 70821-4313

Attention: Office of Environmental Services,  
Waste Permits Division

Dear [Sir or Madam]:

\*\*\*

[See Prior Text in Letter]

E. ...

CERTIFICATE OF INSURANCE FOR CLOSURE OR POST-CLOSURE CARE

\*\*\*

[See Prior Text in Certificate]

F. Closure Guarantee. A letter from the chief financial officer, as specified in LAC 33:V.3707.F.3 or 3711.F.3 or 4403.E.3 or 4407.E.3, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

LETTER FROM CHIEF FINANCIAL OFFICER

(Closure and/or Post-Closure Care)

Secretary

Louisiana Department of Environmental Quality

Post Office Box 4313

Baton Rouge, Louisiana 70821-4313

Attention: Office of Environmental Services,

Waste Permits Division  
Dear [Sir or Madam]:

\* \* \*

[See Prior Text in Letter]

G. Liability Coverage Guarantee. A letter from the chief financial officer, as specified in LAC 33:V.3715.F or 4411, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

LETTER FROM CHIEF FINANCIAL OFFICER  
(Liability Coverage)

Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 4313  
Baton Rouge, Louisiana 70821-4313  
Attention: Office of Environmental Services,  
Waste Permits Division

Dear [Sir or Madam]:

\* \* \*

[See Prior Text in Letter]

H. – J. ...

HAZARDOUS WASTE FACILITY CERTIFICATE OF  
LIABILITY INSURANCE

\* \* \*

[See Prior Text in Certificate]

K. Letter of Credit. A letter of credit, as specified in LAC 33:V.3715 or 4411, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

IRREVOCABLE STANDBY LETTER OF CREDIT

Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 4313  
Baton Rouge, Louisiana 70821-4313  
Attention: Office of Environmental Services,  
Waste Permits Division

Dear [Sir or Madam]:

\* \* \*

[See Prior Text in Letter]

L. – N.2.Certification. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:686 (July 1985), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:47 (January 1990), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1514 (November 1997), repromulgated LR 23:1684 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2493 (November 2000), amended by the Office of Environmental Assessment, LR 30:2023 (September 2004), amended by the Office of Environmental Assessment, LR 31:1573 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2472 (October 2005), LR 33:

### **Chapter 38. Universal Wastes**

#### **Subchapter B. Standards for Small Quantity Handlers of Universal Waste**

##### **§3831. Off-Site Shipments**

A. – F.2. ...

G. If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal

waste, the handler must immediately notify the Office of Environmental Compliance of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The administrative authority will provide instructions for managing the hazardous waste.

H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:573 (May 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2495 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

#### **Subchapter C. Standards for Large Quantity Handlers of Universal Waste**

##### **§3841. Notification**

A. Except as provided in Paragraphs A.1 and 2 of this Section, a large quantity handler of universal waste must have sent written notification of universal waste management to the Office of Environmental Services and received an EPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.

A.1. – B.5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:574 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2496 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2473 (October 2005), LR 31:3120 (December 2005), LR 33:

##### **§3853. Off-Site Shipments**

A. – F.2. ...

G. If a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the Office of Environmental Compliance of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The administrative authority will provide instructions for managing the hazardous waste.

H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:576 (May 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2496 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

#### **Subchapter E. Standards for Destination Facilities**

##### **§3875. Off-Site Shipments**

A. – B.2. ...

C. If the owner or operator of a destination facility receives a shipment containing hazardous waste that was shipped as a universal waste, the owner or operator of the destination facility must immediately notify the Office of Environmental Compliance of the illegal shipment, and provide the name, address, and phone number of the shipper. The administrative authority will provide instructions for managing the hazardous waste.

D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:578 (May 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2496 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

**Chapter 40. Used Oil**  
**Subchapter D. Standards for Used Oil Transporter and Transfer Facilities**

**§4029. Notification**

A. ...

B. Mechanics of Notification. A used oil transporter who has not received an EPA identification number may obtain one by notifying the Office of Environmental Services of their used oil activity by submitting a completed Louisiana Notification of Hazardous Waste Activity Form (HW-1).

C. Upon promulgation of this Chapter, used oil transporters and transfer facilities who have previously notified must renotify the Office of Environmental Services of used oil activity.

D. Used oil transporters and transfer facilities must notify the Office of Environmental Services within seven business days if any of the information submitted in the application for the identification number changes.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266, 267 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2497 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2473 (October 2005), LR 33:

**Subchapter E. Standards for Used Oil Processors and Re-Refiners**

**§4043. Notification**

A. ...

B. Mechanics of Notification. A used oil processor or re-refiner who has not received an EPA identification number may obtain one by notifying the Office of Environmental Services of their used oil activity by submitting a completed Louisiana Notification of Hazardous Waste Activity Form (HW-1).

C. Upon promulgation of this Chapter, used oil processors and re-refiners who have previously notified must renotify the Office of Environmental Services of used oil activity.

D. Used oil processors and re-refiners must notify the Office of Environmental Services within seven business days if any of the information submitted in the application for the identification number changes.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266, 267 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2497 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2473 (October 2005), LR 33:

**§4045. General Facility Standards**

A. – B.6.h.ii. ...

iii. the owner or operator must notify SPOC and the appropriate local authorities that the facility is in compliance with Subparagraphs B.h.i and ii of this Section before operations are resumed in the affected area(s) of the facility.

i. The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he must submit a written report about the incident to SPOC. The report must include:

i. – vii. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2497 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2473 (October 2005), LR 33:

**Subchapter F. Standards for Used Oil Burners Which Burn Off-Specification Used Oil for Energy Recovery**

**§4065. Notification**

A. ...

B. Mechanics of Notification. A used oil burner who has not received an EPA identification number may obtain one by notifying the Office of Environmental Services of their used oil activity by submitting a completed Louisiana Notification of Hazardous Waste Activity Form (HW-1).

C. Upon promulgation of this Chapter, used oil burners that burn off-specification used oil for energy recovery and have previously notified must renotify the Office of Environmental Services of this used oil activity.

D. A used oil burner must notify the Office of Environmental Services within seven business days if any of the information submitted in the application for the identification number changes.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266, 267 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2497 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2474 (October 2005), LR 33:

**Subchapter G. Standards for Used Oil Fuel Marketers**  
**§4083. Notification**

A. ...

B. A marketer who has not received an EPA identification number may obtain one by notifying the Office of Environmental Services of their used oil activity by submitting a completed Louisiana Notification of Hazardous Waste Activity Form (HW-1) EPA Form 8700-12.

C. Upon promulgation of this Chapter, used oil fuel marketers who have previously notified must renotify the Office of Environmental Services of used oil activity.

D. A generator must notify the Office of Environmental Services within seven days if any of the information submitted in the application for the identification number changes.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2497 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2474 (October 2005), LR 33:

## **Chapter 42. Conditional Exemption for Low-Level Mixed Waste Storage and Disposal**

### **§4201. What definitions apply to this Chapter?**

A. This Chapter uses the following special definitions.

\* \* \*

*We or Us—administrative authority*, as defined in LAC 33:V.109. Within this Chapter, the administrative authority is the Office of Environmental Services, unless otherwise indicated.

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:1004 (May 2002), amended LR 28:2181 (October 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2474 (October 2005), LR 33:

### **§4241. How could you lose the transportation and disposal conditional exemption for your waste and what actions must you take?**

A. ...

1. When you fail to meet any of the conditions specified in LAC 33:V.4225 for any of your wastes, you must report to the Office of Environmental Compliance, in writing by certified delivery, within 30 days of learning of the failure. Your report must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. This report must include:

A.1.a. – B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:1008 (May 2002), amended LR 28:2181 (October 2002), LR 30:1675 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

## **Chapter 43. Interim Status**

### **§4301. Purpose and Applicability**

A. The purpose of interim status is to allow existing facilities to operate in an appropriate and responsible manner during the period of time required to process and review permit application or until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled. Interim status facilities must, when required by the administrative authority, submit to the Office of Environmental Services a permit application in compliance with the requirements of these regulations. Failure to submit an application is a violation of interim status and will result in revocation of a facility's interim status designation. Once revoked the facility will be treated as an unpermitted facility and appropriate legal action will be taken.

B. – I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998), LR 25:482 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:2498 (November 2000), LR 27:713 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2474 (October 2005), LR 31:3121 (December 2005), LR 32:612 (April 2006), LR 33:

## **Subchapter A. General Facility Standards**

### **§4320. Construction Quality Assurance Program**

A. – C.2. ...

D. Certification. The owner or operator of units subject to this Section must submit to the Office of Environmental Services, by certified mail or hand delivery, at least 30 days prior to receiving waste, a certification signed by the CQA officer that the CQA plan has been successfully carried out and that the unit meets the requirements of LAC 33:V.4462.A, 4476, or 4512.A. The owner or operator may receive waste in the unit after 30 days from the administrative authority's receipt of the CQA certification unless the administrative authority determines in writing that the construction is not acceptable, or extends the review period for a maximum of 30 more days, or seeks additional information from the owner or operator during this period. Documentation supporting the CQA officer's certification must be furnished to the administrative authority upon request.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2499 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2475 (October 2005), LR 33:

## **Subchapter E. Groundwater Monitoring**

### **§4367. Applicability**

Facilities that have interim status must comply with this Subchapter in lieu of LAC 33:V.Chapter 33.

A. – C. ...

1. submit to the Office of Environmental Services a specific plan, certified by a qualified geologist or geotechnical engineer, which satisfies the requirements of LAC 33:V.4373.G, for an alternate groundwater monitoring system;

C.2. – E.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:484 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2499 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

### **§4373. Preparation, Evaluation, and Response**

A. – E. ...

F. Within 15 days after the notification under LAC 33:V.4373.E, the owner or operator must develop and submit to the Office of Environmental Services a specific plan, based on the outline required under LAC 33:V.4373.A and certified by a qualified geologist or geotechnical engineer, for a groundwater quality assessment program at the facility.

G. – H.2. ...

I. The owner or operator must make his first determination under LAC 33:V.4373.H as soon as technically feasible and, within 15 days after that determination, submit to the Office of Environmental Services a written report containing an assessment of the groundwater quality.

J. If the owner or operator determines, based on the results of the first determination under LAC 33:V.4373.H, that no hazardous waste or hazardous waste constituents from the facility have entered the groundwater, then he may reinstate the indicator evaluation program described in LAC 33:V.4371 and 4373.B. If the owner or operator reinstates the indicator evaluation program, he must notify the Office of Environmental Services, in the report submitted under LAC 33:V.4373.I.

K. – K.1. ...

2. within 30 days or other schedule required by the administrative authority, after the establishment of the groundwater protection standard, the owner or operator shall submit to the Office of Environmental Services a corrective action and monitoring plan;

K.3. – M. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 14:791 (November 1988), LR 18:723 (July 1992), amended by the Office of the Secretary, LR 24:2248 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2499 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

### **§4375. Recordkeeping and Reporting**

A. – A.1. ...

2. report the following groundwater monitoring information to the Office of Environmental Services:

A.2.a. – B.1. ...

2. annually, until final closure of the facility, submit to the Office of Environmental Services a report containing the results of his or her groundwater quality assessment program, which includes, but is not limited to, the calculated (or measured) rate of migration of hazardous waste or hazardous waste constituents in the groundwater during the reporting period. This information must be submitted no later than March 1 following each calendar year.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1520 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2499 (November 2000),

amended by the Office of the Secretary, Legal Affairs Division, LR 33:

### **Subchapter F. Closure and Post-Closure**

#### **§4381. Closure Plan; Amendment of Plan**

A. – B.8. ...

C. Amendment of Plan. The owner or operator may amend the closure plan at any time prior to the notification of partial or final closure of the facility. An owner or operator with an approved closure plan must submit a written request to the Office of Environmental Services to authorize a change to the approved closure plan. The written request must include a copy of the amended closure plan for approval by the administrative authority.

1. – 2. ...

3. An owner or operator with an approved closure plan must submit the modified plan to the Office of Environmental Services at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred that has affected the closure plan. If an unexpected event has occurred during the partial or final closure period, the owner or operator must submit the modified plan no more than 30 days after the unexpected event. These provisions also apply to owners or operators of surface impoundments and waste piles who intended to remove all hazardous wastes at closure but are required to close as landfills in accordance with LAC 33:V.4501. If the amendment to the plan is a Class 2 or 3 modification according to the criteria in LAC 33:V.321.C and 322, the modification to the plan will be approved according to the procedures in Paragraph D.4 of this Section.

4. The administrative authority may request modifications to the plan under the conditions described in Paragraph C.1 of this Section. An owner or operator with an approved closure plan must submit the modified plan within 60 days of the request from the Office of Environmental Services, or within 30 days if the unexpected event occurs during partial or final closure. If the amendment is considered a Class 2 or 3 modification according to the criteria in LAC 33:V.321.C and 322, the modification to the plan will be approved in accordance with the procedures in Paragraph D.4 of this Section.

D. Notification of Partial Closure and Final Closure

1. The owner or operator must submit the closure plan to the Office of Environmental Services at least 180 days prior to the date on which he expects to begin closure of the first surface impoundment, waste pile, land treatment, or landfill unit, or final closure if it involves such a unit, whichever is earlier. The owner or operator must submit the closure plan to the administrative authority at least 45 days prior to the date on which he expects to begin partial or final closure of a boiler or industrial furnace. The owner or operator must submit the closure plan to the administrative authority at least 45 days prior to the date on which he expects to begin final closure of a facility with only tanks, container storage, or incinerator units. Owners or operators with approved closure plans must notify the administrative authority in writing at least 60 days prior to the date on which they expect to begin closure of a surface impoundment, waste pile, landfill, or land treatment unit, or final closure of a facility involving such a unit. Owners or operators with approved closure plans must notify the administrative authority in writing at least 45 days prior to

the date on which they expect to begin partial or final closure of a boiler or industrial furnace. Owners or operators with approved closure plans must notify the administrative authority in writing at least 45 days prior to the date on which they expect to begin final closure of a facility with only tanks, container storage, or incinerator units.

2. – 2.b. ...

3. The owner or operator must submit his closure plan to the Office of Environmental Services no later than 15 days after:

D.3.a. – E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:485 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2500 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2475 (October 2005), LR 33:

#### §4383. Closure; Time Allowed for Closure

A. – E.4.c. ...

5. During the period of corrective action, the owner or operator shall provide semiannual reports to the Office of Environmental Services that describe the progress of the corrective action program, compile all groundwater monitoring data, and evaluate the effect of the continued receipt of non-hazardous wastes on the effectiveness of the corrective action.

6. – 7.e. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 14:791 (November 1988), LR 17:478 (May 1991), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2500 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

#### §4387. Certification of Closure

A. Within 60 days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit, and within 60 days of completion of final closure, the owner or operator must submit to the Office of Environmental Services, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the administrative authority upon request until he releases the owner or operator from the financial assurance requirements for closure under LAC 33:V.4403.H.

B. Survey Plat. No later than the submission of the certification of closure of each hazardous waste disposal unit, an owner or operator must submit to the local zoning

authority, or the authority with jurisdiction over local land use, and to the Office of Environmental Services a survey plat indicating the location and dimensions of landfill cells or other hazardous waste disposal units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority, or the authority with jurisdiction over local land use must contain a note, prominently displayed, that states the owner's or operator's obligation to restrict disturbance of the hazardous waste disposal unit in accordance with the applicable LAC 33:V.Chapter 35 or 43 regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2501 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2475 (October 2005), LR 33:

#### §4391. Post-Closure Plan; Amendment of Plan

A. Written Plan. By May 19, 1988, the owner or operator of a hazardous waste disposal unit must have a written post-closure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous wastes at closure must prepare a post-closure plan and submit it to the Office of Environmental Services within 90 days of the date that the owner or operator or administrative authority determines that the hazardous waste management unit or facility must be closed as a landfill, subject to the requirements of LAC 33:V.4389-4395.

B. – C.5. ...

D. Amendment of Plan. The owner or operator may amend the post-closure plan any time during the active life of the facility or during the post-closure care period. An owner or operator with an approved post-closure plan must submit a written request to the Office of Environmental Services to authorize a change to the approved plan. The written request must include a copy of the amended post-closure plan for approval by the administrative authority.

1. – 2. ...

3. An owner or operator with an approved post-closure plan must submit the modified plan to the Office of Environmental Services at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred that has affected the post-closure plan. If an owner or operator of a surface impoundment or a waste pile who intended to remove all hazardous wastes at closure in accordance with LAC 33:V.4457.B or 4475.A, is required to close as a landfill in accordance with LAC 33:V.4501, the owner or operator must submit a post-closure plan within 90 days of the determination by the owner or operator or administrative authority that the unit must be closed as a landfill. If the amendment to the post-closure plan is a Class 2 or 3 modification according to the criteria in LAC 33:V.321.C and 322, the modification to the plan will be approved according to the procedures in Subsection F of this Section.

4. The administrative authority may request modifications to the plan under the conditions described in Paragraph D.1 of this Section. An owner or operator with an approved post-closure plan must submit the modified plan

no later than 60 days after the request from the administrative authority. If the amendment to the plan is considered a Class 2 or 3 modification according to the criteria in LAC 33:V.321.C and 322, the modifications to the post-closure plan will be approved in accordance with the procedures in Subsection F of this Section. If the administrative authority determines that an owner or operator of a surface impoundment or waste pile who intended to remove all hazardous wastes at closure must close the facility as a landfill, the owner or operator must submit a post-closure plan for approval to the Office of Environmental Services within 90 days of the determination.

E. The owner or operator of a facility with hazardous waste management units subject to these requirements must submit his post-closure plan to the administrative authority at least 180 days before the date he expects to begin partial or final closure of the first hazardous waste disposal unit. The date he "expects to begin closure" of the first hazardous waste disposal unit must be either within 30 days after the date on which the hazardous waste management unit receives the known final volume of hazardous waste, or if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous wastes. The owner or operator must submit the post-closure plan to the Office of Environmental Services no later than 15 days after:

E.1. – G.2.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 14:791 (November 1988), LR 16:614 (July 1990), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:485 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2501 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2476 (October 2005), LR 33:

#### **§4393. Post-Closure Notices**

A. No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Office of Environmental Services a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location and quantity of the hazardous wastes to the best of his knowledge and in accordance with any records he has kept.

B. – B.1.b. ...

c. the survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by LAC 33:V.4387 and 4393.A have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Office of Environmental Services; and

2. ...

C. If the owner or operator or any subsequent owner or operator or any subsequent owner of the land upon which a

hazardous waste disposal unit was located wishes to remove hazardous wastes and hazardous waste residues, the liner, if any, and all contaminated structures, equipment, and soils, he must request a modification to the approved post-closure plan in accordance with the requirements of LAC 33:V.4391.G. The owner or operator must demonstrate that the removal of hazardous wastes will satisfy the criteria of LAC 33:V.4389.C. By removing hazardous waste, the owner or operator may become a generator of hazardous waste and must manage it in accordance with all applicable requirements of this Chapter. If the owner or operator is granted approval to conduct the removal activities, the owner or operator may request that the administrative authority approve either:

1. the removal of the notation on the deed to the facility property or other instrument normally examined during title search; or

2. the addition of a notation to the deed or instrument indicating the removal of the hazardous waste.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 18:723 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2502 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2476 (October 2005), LR 33:

#### **§4395. Certification of Completion of Post-Closure Care**

A. No later than 60 days after completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator must submit to the Office of Environmental Services, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the administrative authority upon request until he releases the owner or operator from the financial assurance requirements for post-closure care under LAC 33:V.4407.H.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2502 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2477 (October 2005), LR 33:

#### **Subchapter G. Financial Requirements**

##### **§4403. Financial Assurance for Closure**

By the effective date of these regulations an owner or operator of each facility must establish financial assurance for closure of the facility. He must choose from the options as specified in Subsections A-E of this Section.

A. Closure Trust Fund

1. An owner or operator may satisfy the requirements of this Section by establishing a closure trust fund that conforms to the requirements of this Paragraph, and

submitting an originally signed duplicate of the trust agreement to the Office of Environmental Services. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

2. – 6. ...

7. If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Office of Environmental Services for release of the amount in excess of the current closure cost estimate.

8. If an owner or operator substitutes other financial assurance as specified in this Section for all or part of the trust fund, he may submit a written request to the Office of Environmental Services for release of the amount in excess of the current closure cost estimate covered by the trust fund.

9. ...

10. After beginning partial or final closure, an owner or operator or another person authorized to conduct partial or final closure may request reimbursements for partial or final closure expenditures by submitting itemized bills to the Office of Environmental Services. The owner or operator may request reimbursement for partial closure only if sufficient funds are remaining in the trust fund to cover the maximum costs of closing the facility over its remaining operating life. No later than 60 days after receiving bills for partial or final closure activities, the administrative authority will instruct the trustees to make reimbursements in those amounts as the administrative authority specifies in writing, if the administrative authority determines that the partial or final closure expenditures are in accordance with the approved closure plan, or otherwise justified. If the administrative authority has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, he may withhold reimbursements of such amounts as he deems prudent until he determines, in accordance with LAC 33:V.4407.H that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the administrative authority does not instruct the trustee to make such reimbursements, he will provide to the owner or operator a detailed written statement of reasons.

11. – 11.b. ...

#### B. Surety Bond Guaranteeing Payment into a Closure Trust Fund

1. An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this Paragraph and submitting the bond to the Office of Environmental Services. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

2. – 6. ...

7. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current

closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

8. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Office of Environmental Services. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts.

9. ...

#### C. Closure Letter of Credit

1. An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Paragraph and submitting the letter to the Office of Environmental Services. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency.

2. – 6. ...

7. Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

8. ...

9. If the owner or operator does not establish alternate financial assurance as specified in this Section and obtain written approval of such alternate assurance from the administrative authority within 90 days after receipt by both the owner or operator and the Office of Environmental Services of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the administrative authority may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the administrative authority will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this Section and obtain written approval of such assurance from the administrative authority.

10. – 10.b. ...

#### D. Closure Insurance

1. An owner or operator may satisfy the requirements of this Section by obtaining closure insurance that conforms to the requirements of this Paragraph and submitting a certificate of such insurance to the administrative authority. By the effective date of these regulations the owner or operator must submit to the Office of Environmental Services a letter from an insurer stating that the insurer is considering issuance of closure insurance conforming to the requirements of this Paragraph to the owner or operator. Within 90 days after the effective date of these regulations, the owner or operator must submit the certificate of



insurance to the Office of Environmental Services or establish other financial assurance as specified in this Section. At a minimum, the insurer must be licensed to transact the business of insurance, or be eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and authorized to transact business in Louisiana.

2. – 5. ...

6. The owner or operator must maintain the policy in full force and effect until the administrative authority consents to termination of the policy by the owner or operator as specified in Paragraph D.10 of this Section. Failure to pay the premium, without substitution of alternate financial assurance as specified in this Section, will constitute a significant violation of these regulations, warranting such remedy as the administrative authority deems necessary. Such violation will be deemed to begin upon receipt by the Office of Environmental Services of a notice of future cancellation, termination, or failure to renew, due to nonpayment of the premium, rather than upon the date of expiration.

7. ...

8. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Office of Environmental Services. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the administrative authority and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

a. – e. ...

9. Whenever the current closure cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

D.10. – E.2. ...

3. To demonstrate that he meets this test, the owner or operator must submit the following items to the Office of Environmental Services:

3.a. – 4.f. ...

5. After the initial submission of items specified in Paragraph E.3 of this Section, the owner or operator must send updated information to the Office of Environmental Services within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in Paragraph E.3 of this Section.

6. If the owner or operator no longer meets the requirements of Paragraph E.1 of this Section, he must send notice to the Office of Environmental Services of intent to establish alternate financial assurance as specified in this Section. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

E.7. – F. ...

G. Use of a Financial Mechanism for Multiple Facilities. An owner or operator may use a financial assurance mechanism specified in this Section to meet the requirements of this Section for more than one facility. Evidence of financial assurance submitted to the Office of Environmental Services must include a list showing, for each facility, the EPA identification number, name, address, and the amount of funds for closure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing the funds available through the mechanism for closure of any of the facilities covered by the mechanism, the administrative authority may direct only the amount of funds designated for that particular facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 14:791 (November 1988), LR 16:219 (March 1990), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1520 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2502 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2477 (October 2005), LR 33:

#### **§4407. Financial Assurance for Post-Closure Care**

An owner or operator of each hazardous waste disposal unit must establish financial assurance for post-closure care of the facility. He must choose from the options as specified in Subsections A-E of this Section.

##### **A. Post-Closure Trust Fund**

1. An owner or operator may satisfy the requirements of this Subsection by establishing a post-closure trust fund that conforms to the requirements of this Paragraph and submitting an originally signed duplicate of the trust agreement to the Office of Environmental Services. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

2. – 6. ...

7. During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current post-closure cost estimate, the owner or operator may submit a written request to the Office of Environmental Services for release of the amount in excess of the current post-closure cost estimate.

8. If an owner or operator substitutes other financial assurance as specified in this Section for all or part of the trust fund, he may submit a written request to the Office of Environmental Services for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.

9. – 10. ...

11. An owner or operator, or any other person authorized to perform post-closure care, may request reimbursement for the post-closure expenditures by submitting itemized bills to the Office of Environmental Services. Within 60 days after receiving bills for post-closure activities, the administrative authority will instruct the trustee to make reimbursements in those amounts as the administrative authority specifies in writing, if the administrative authority determines that the post-closure expenditures are in accordance with the approved post-closure plan or otherwise justified. If the administrative authority does not instruct the trustee to make such reimbursements, he will provide the owner or operator with a detailed statement of reasons.

12. ...

#### B. Surety Bond Guaranteeing Payment into a Post-Closure Trust Fund

1. An owner or operator may satisfy the requirements of this Subsection by obtaining a surety bond that conforms to the requirements of this Paragraph and submitting the bond to the Office of Environmental Services. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

2. – 6. ...

7. Whenever the current post-closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Subsection to cover the increase. Whenever the current post-closure cost estimate decreases, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

8. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Office of Environmental Services. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts.

9. ...

#### C. Post-Closure Letter of Credit

1. An owner or operator may satisfy the requirements of this Subsection by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Paragraph and by submitting the letter to the Office of Environmental Services. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

2. – 4. ...

5. The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Office of Environmental Services, by certified mail, of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator, and the administrative authority have received the notice, as evidenced by the return receipts.

6. ...

7. Whenever the current post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current post-closure cost estimate and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

8. – 9. ...

10. If the owner or operator does not establish alternate financial assurance as specified in this Section and obtain written approval of such alternate assurance from the administrative authority within 90 days after receipt by both the owner or operator and the Office of Environmental Services of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the administrative authority will draw on the letter of credit. The administrative authority may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the administrative authority will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this Section and obtain written approval of such assurance from the administrative authority.

11. – 11.b. ...

#### D. Post-Closure Insurance

1. An owner or operator may satisfy the requirements of this Subsection by obtaining post-closure insurance that conforms to the requirements of this Paragraph and submitting a certificate of such insurance to the Office of Environmental Services. The owner or operator must submit to the administrative authority a letter from an insurer stating that the insurer is considering issuance of post-closure insurance conforming to the requirements of this Paragraph to the owner or operator. Within 90 days after the effective date of these regulations, the owner or operator must submit the certificate of insurance to the administrative authority or establish other financial assurance as specified in this Section. At a minimum, the insurer must be licensed to transact the business of insurance, or be eligible to provide insurance as an excess or surplus lines insurer in one or more states, and authorized to transact insurance business in Louisiana.

2. – 4. ...

5. An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure expenditures by submitting itemized bills to the Office of Environmental Services. Within 60 days after receiving bills for post-closure activities, the administrative authority will instruct the insurer to make reimbursements in those amounts as the administrative authority specifies in writing, if the administrative authority determines that the post-closure expenditures are in accordance with the approved post-closure plan or otherwise justified. If the administrative authority does not instruct the insurer to make such reimbursements, he will provide a detailed written statement of reasons.

6. – 7. ...

8. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Office of Environmental Services. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the administrative authority and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

a. – e. ...

9. Whenever the current post-closure cost estimate increases to an amount greater than the face amount of the policy during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the face amount may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

D.10. – E.2. ...

3. To demonstrate that he meets this test, the owner or operator must submit the following items to the Office of Environmental Services:

a. – c.ii. ...

4. The owner or operator may obtain an extension of the time allowed for submission of the documents specified in Paragraph E.3 of this Section if the fiscal year of the owner or operator ends during the 90 days prior to the effective date of these regulations and if the year-end financial statements for that fiscal year will be audited by an independent certified public accountant. The extension will end no later than 90 days after the end of the owner's or operator's fiscal year. To obtain the extension, the owner's or operator's chief financial officer must send, by the effective date of these regulations, a letter to the Office of

Environmental Services. This letter from the chief financial officer must:

a. – f. ...

5. After the initial submission of items specified in Paragraph E.3 of this Section, the owner or operator must send updated information to the Office of Environmental Services within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in Paragraph E.3 of this Section.

6. If the owner or operator no longer meets the requirements of Paragraph E.1 of this Section, he must send notice to the Office of Environmental Services of intent to establish alternate financial assurance as specified in this Section. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

7. – 11.a. ...

b. the corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Office of Environmental Services. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts; and

E.11.c. – F. ...

G. Use of a Financial Mechanism for Multiple Facilities. An owner or operator may use a financial assurance mechanism specified in this Subsection to meet the requirements of this Subsection for more than one facility. Evidence of financial assurance submitted to the Office of Environmental Services must include a list showing, for each facility, the EPA identification number, name, address, and the amount of funds for post-closure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for post-closure care of any of the facilities covered by the mechanism, the administrative authority may direct only the amount of funds designated for that particular facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1521 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2504 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2479 (October 2005), LR 33:

#### §4411. Liability Requirements

A. – A.1. ...

a. Each insurance policy must be amended by attachment of the hazardous waste facility liability endorsement or evidenced by a certificate of liability

insurance. The wording of the endorsement must be identical to the wording specified in LAC 33:V.3719.I. The wording of the certificate of insurance must be identical to the wording specified in LAC 33:V.3719.J. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Office of Environmental Services. If requested by the administrative authority, the owner or operator must provide a signed duplicate original of the insurance policy.

1.b. – 6. ...

7. An owner or operator shall notify the Office of Environmental Services in writing within 30 days whenever:

A.7.a. – B.1. ...

a. Each insurance policy must be amended by attachment of the hazardous waste facility liability endorsement or evidenced by a certificate of liability insurance. The wording of the endorsement must be identical to the wording specified in LAC 33:V.3719.I. The wording of the certificate of insurance must be identical to the wording specified in LAC 33:V.3719.J. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Office of Environmental Services. If requested by the administrative authority, the owner or operator must provide a signed duplicate original of the insurance policy.

1.b. – 6. ...

7. An owner or operator shall notify the Office of Environmental Services in writing within 30 days whenever:

B.7.a. – F.2. ...

3. To demonstrate that he meets this test, the owner or operator must submit the following three items to the Office of Environmental Services.

a. – c.ii. ...

4. The owner or operator may obtain a one-time extension of the time allowed for submission of the documents specified in Paragraph F.3 of this Section if the fiscal year of the owner or operator ends during the 90 days prior to the effective date of these regulations and if the year-end financial statements for that fiscal year will be audited by an independent certified public accountant. The extension will end no later than 90 days after the end of the owner's or operator's fiscal year. To obtain the extension, the chief financial officer for the owner or operator must send a letter to the Office of Environmental Services. This letter from the chief financial officer must:

a. – f. ...

5. After the initial submission of items specified in Paragraph F.3 of this Section, the owner or operator must send updated information to the Office of Environmental Services within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in Paragraph F.3 of this Section.

6. If the owner or operator no longer meets the requirements of Paragraph F.1 of this Section, he must obtain insurance, a letter of credit, a surety bond, a trust fund, or a guarantee for the entire amount of required liability coverage as specified in this Section. Evidence of liability coverage must be submitted to the Office of Environmental Services within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

F.7. – G.3. ...

#### H. Letter of Credit for Liability Coverage

1. An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Subsection and submitting a copy of the letter of credit to the Office of Environmental Services.

2. – 5. ...

#### I. Surety Bond for Liability Coverage

1. An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this Subsection and submitting a copy of the bond to the Office of Environmental Services.

2. – 4. ...

#### J. Trust Fund for Liability Coverage

1. An owner or operator may satisfy the requirements of this Section by establishing a trust fund that conforms to the requirements of this Subsection and submitting an originally signed duplicate of the trust agreement to the Office of Environmental Services.

J.2. – K. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 16:399 (May 1990), LR 18:723 (July 1992), repromulgated LR 19:627 (May 1993), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1521 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2506 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2481 (October 2005), LR 33:

### **§4413. Incapacity of Owners or Operators, Guarantors, or Financial Institutions**

A. An owner or operator must notify the Office of Environmental Services by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in LAC 33:V.4403.E and 4407.E must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (see LAC 33:V.3719.H).

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2507 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2482 (October 2005), LR 33:

### **Subchapter I. Tanks**

#### **§4437. Containment and Detection of Releases**

A. – H. ...

1. The Office of Environmental Services must be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for a variance from secondary containment as allowed in Subsection G of this Section according to the following schedule:

a. – b. ...

2. As part of the notification, the owner or operator must also submit to the Office of Environmental Services a

description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in Paragraph G.1 or 2 of this Section.

3. The demonstration for a variance must be completed and submitted to the Office of Environmental Services within 180 days after notifying the administrative authority of intent to conduct the demonstration.

H.4. – I.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), LR 18:723 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2507 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2482 (October 2005), LR 33:

### **Subchapter J. Surface Impoundments**

#### **§4449. Action Leakage Rate**

A. The owner or operator of surface impoundment units subject to LAC 33:V.4462.A must submit a proposed action leakage rate to the Office of Environmental Services when submitting the notice required under LAC 33:V.4462.B. Within 60 days of receipt of the notification, the administrative authority will establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this Section, or extend the review period for up to 30 days. If no action is taken by the administrative authority before the original 60- or the extended 90-day review periods, the action leakage rate will be approved as proposed by the owner or operator.

B. – C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2508 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2482 (October 2005), LR 33:

#### **§4451. Response Actions**

A. The owner or operator of surface impoundment units subject to LAC 33:V.4462.A must submit a response action plan to the Office of Environmental Services when submitting the proposed action leakage rate under LAC 33:V.4449. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in Subsection B of this Section.

B. – C.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2508 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2483 (October 2005), LR 33:

### **§4462. Design Requirements**

A. ...

B. The owner or operator of each unit referred to in Subsection A of this Section must notify the Office of Environmental Services at least 60 days prior to receiving waste. The owner or operator of each facility submitting notice must file a Part II application within six months of the receipt of such notice.

C. – H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:220 (March 1990), amended LR 17:368 (April 1991), LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2508 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2483 (October 2005), LR 33:

### **Subchapter K. Waste Piles**

#### **§4472. Response Actions**

A. The owner or operator of waste pile units subject to LAC 33:V.4476 must submit a response action plan to the Office of Environmental Services when submitting the proposed action leakage rate under LAC 33:V.4474. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in Subsection B of this Section.

B. – C.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2508 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2483 (October 2005), LR 33:

#### **§4474. Action Leakage Rates**

A. The owner or operator of waste pile units subject to LAC 33:V.4476 must submit a proposed action leakage rate to the Office of Environmental Services when submitting the notice required under LAC 33:V.4476. Within 60 days of receipt of the notification, the administrative authority will establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this Section, or extend the review period for up to 30 days. If no action is taken by the administrative authority before the original 60- or the extended 90-day review periods, the action leakage rate will be approved as proposed by the owner or operator.

B. – C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2508 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2483 (October 2005), LR 33:

## **Subchapter L. Land Treatment**

### **§4489. Closure and Post-Closure**

A. – D.4. ...

E. For the purpose of complying with LAC 33:V.4387, when closure is completed the owner or operator may submit to the Office of Environmental Services certification both by the owner or operator and by an independent qualified soil scientist in lieu of an independent registered professional engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

F. – F.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 18:723 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2509 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2483 (October 2005), LR 33:

## **Subchapter M. Landfills**

### **§4512. Design and Operating Requirements**

A. ...

B. The owner or operator of each unit referred to in Subsection A of this Section must notify the Office of Environmental Services at least 60 days prior to receiving waste. The owner or operator of each facility submitting notice must file a Part II application within six months of the receipt of such notice.

C. – I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:220 (March 1990), amended LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2509 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2483 (October 2005), LR 33:

## **Subchapter N. Incinerators**

### **§4522. Interim Status Incinerators Burning Particular Hazardous Wastes**

A. – B. ...

1. The owner or operator will submit an application to the Office of Environmental Services containing applicable information in LAC 33:V.529 and 3115 demonstrating that the incinerator can meet the performance standards in LAC 33:V.Chapter 31 when they burn these wastes.

2. – 3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:220 (March 1990), amended LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2509 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2484 (October 2005), LR 33:

## **Subchapter O. Thermal Treatment**

### **§4534. Interim Status Thermal Treatment Devices Burning Particular Hazardous Waste**

A. – B. ...

1. The owner or operator will submit an application to the Office of Environmental Services containing the applicable information in LAC 33:V.529 and 3115 demonstrating that the thermal treatment unit can meet the performance standard in LAC 33:V.Chapter 31 when they burn these wastes.

2. – 3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:220 (March 1990), amended LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2509 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2484 (October 2005), LR 33:

## **Subchapter T. Containment Buildings**

### **§4703. Design and Operating Standards**

A. – C.3.a.iii. ...

iv. within seven days after the discovery of the condition, notify the Office of Environmental Services of the condition and, within 14 working days, provide a written notice to the administrative authority with a description of the steps taken to repair the containment building and the schedule for accomplishing the work;

b. ...

c. upon completing all repairs and cleanup, the owner or operator must notify the Office of Environmental Services in writing and provide a verification, signed by a qualified, registered professional engineer, that the repairs and cleanup have been completed according to the written plan submitted in accordance with LAC 33:V.4703.C.3.a.iv; and

C.4. – E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2509 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

## **Chapter 53 Military Munitions**

### **§5309. Standards Applicable to the Storage of Solid Waste Military Munitions**

A. – A.1.c. ...

d. within 90 days of when a storage unit is first used to store waste military munitions, whichever is later, the owner or operator must notify the Office of Environmental Services of the location of any waste storage unit used to store waste military munitions for which the conditional exemption in Paragraph A.1 of this Section is claimed;

1.e. – 3. ...

B. Notice of Termination of Waste Storage. The owner or operator must notify the Office of Environmental Services when a storage unit identified in Subparagraph A.1.d of this Section will no longer be used to store waste military munitions.

C. – E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1757 (September 1998), amended by the Office of

Environmental Assessment, Environmental Planning Division, LR 26:2510 (November 2000), LR 30:1675 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2484 (October 2005), LR 33:

**Part VI. Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation**

**Chapter 1. General Provisions and Definitions**

**§103. Regulatory Overview**

A. ...

B. Site Discovery and Evaluation

1. Site Discovery Reporting. These regulations establish a reporting program as required by the Louisiana Environmental Quality Act to help identify inactive or uncontrolled sites where hazardous substances could have been disposed of or discharged. Owners, lessees, and other persons who know or discover that hazardous substances have been discharged or disposed of at such a site must report this information to the Office of Environmental Assessment within the specified time. The department may also discover sites through its own investigations, referrals from other agencies, or other means.

B.2. – E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2178 (November 1999), amended LR 26:2510 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

**§117. Definitions**

A. ...

\* \* \*

*SPOC*—Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC).

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2179 (November 1999), amended LR 26:2511 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

**Chapter 2. Site Discovery and Evaluation**

**§201. Site Discovery**

A. Site Discovery Reporting Requirements. As part of a program to identify inactive or uncontrolled contaminated sites, the owner, operator, or other responsible person shall report to SPOC, within 24 hours, in the manner provided in LAC 33:I.3923, any sites where hazardous substances have been, or could have been, disposed of or discharged. This Section sets forth the requirements for reporting such sites.

B. – B.5.f. ...

C. Voluntary Reporting. In addition to the mandatory reporting by those persons listed under Subsection B of this Section, all members of the public are encouraged to report to the department any suspected discharge, disposal, or presence of any hazardous substance at any inactive or uncontrolled site. This voluntary reporting can be made by contacting SPOC in the manner provided in LAC 33:I.3923.

D. – D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2182 (November 1999), amended LR 26:2511 (November 2000), LR 28:1762 (August 2002), LR 30:1675 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2484 (October 2005), LR 33:

**Chapter 3. Administrative Processes**

**§303. Declaration That a Site Is Abandoned**

A. – B.2. ...

3. Within 10 calendar days of the publication of the last official journal notice, any owner may request a hearing by writing to the Office of the Secretary regarding the declaration of abandonment. If a request for a hearing is received, the department shall hold a hearing in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

C. – C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2184 (November 1999), amended LR 26:2511 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2484 (October 2005), LR 33:

**Chapter 4. PRP Search, Notification, and Demand for Remediation**

**§403. Notification to Provide Information**

A. The Office of Environmental Assessment shall send a written notification to provide information to all PRPs identified during its preliminary PRP investigation. The administrative authority may, at its discretion, send supplemental or additional notifications to any PRP identified by the administrative authority at any time during the remedial action process.

B. – D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999), LR 26:2511 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

**Chapter 5. Site Remediation**

**§501. Remedial Actions**

A. ...

B. The Office of Environmental Assessment shall consider the following factors in determining the need for or the appropriateness of a remedial action consistent with Subsection A of this Section:

B.1. – E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999), amended LR 26:2511 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

**§502. Role of PRPs in Remedial Actions**

A. The Office of Environmental Assessment may, at its sole discretion, direct PRPs to perform any site investigation, remedial investigation, corrective action study, and/or remedial action in accordance with the following:

1. – 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999), amended LR 26:2511 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

#### **§505. Removal Action**

A. – A.3. ...

4. If the removal action results in achievement of the RECAP standards established by the department, the Office of Environmental Assessment may determine that no further action is required. The department may then issue a decision document stating that the removal action is the final remedy and no further action is required.

5. ...

B. A removal action work plan shall be prepared by the Office of Environmental Assessment, or by PRPs as directed by the department. Any plan prepared by PRPs shall be reviewed and approved by the department prior to the commencement of the removal action. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. The minimum requirements for a removal action work plan include:

B.1. – C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2187 (November 1999), amended LR 26:2512 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

#### **§507. Remedial Investigation**

A. – B. ...

C. To complete a RI the Office of Environmental Assessment, or PRPs as directed by the department, shall provide the following.

1. – 3. ...

4. Remedial Investigation Report. Following the completion of the RI, a remedial investigation report shall be prepared by the Office of Environmental Assessment, or by PRPs as directed by the department. Any RI report prepared by PRPs shall be reviewed and approved by the department. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' report. At a minimum, this report shall include:

C.4.a. – D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2187 (November 1999), amended LR 26:2512 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

#### **§509. Corrective Action Study**

A. – C.5. ...

6. Preparation of a Corrective Action Study Report. Following the completion of the corrective action study activities in this Subsection, a CAS report describing the results of all required CAS activities shall be prepared by the Office of Environmental Assessment, or by PRPs as directed by the department. Any CAS report prepared by PRPs shall be reviewed and approved by the department prior to the

approval of the CAS. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2188 (November 1999), amended LR 26:2512 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

#### **§515. Revisions to the Final Remedy**

A. – B. ...

1. notify the Office of Environmental Assessment that a modification is necessary;

2. – 3. ...

C. If the department determines that a modification is necessary (whether proposed by a PRP or by the department) and if the modification changes the final remedy in the final decision document, then the Office of Environmental Assessment shall:

1. – 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2191 (November 1999), amended LR 26:2512 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

#### **§521. Post-Remedial Management**

A. – A.2. ...

B. Operation and Maintenance. An operation and maintenance (O and M) plan shall be prepared for all sites assigned post-remedial management because hazardous substances remain at the site at levels above remedial goals or where O and M is part of the approved remedy. O and M plans prepared by PRPs shall be submitted to the Office of Environmental Assessment for review and approval. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. O and M plans prepared by PRPs for a site where leaving hazardous substances at the site is part of the approved and completed remedy shall be submitted to the department for review and approval at least six months prior to completion of the remedy. Each O and M plan shall include, but not be limited to:

1. – 8. ...

C. Monitoring. If required by the department, a monitoring plan shall be developed by the Office of Environmental Assessment, or by PRPs as directed by the department. A monitoring plan prepared by PRPs shall be submitted to the department for review and approval. The department shall provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. This plan shall include a description of provisions for monitoring of site conditions during the post-remedial management period to prevent further endangerment to human health and the environment, including:

C.1. – E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2191 (November 1999),



amended LR 26:2512 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

## **Chapter 6. Cost Recovery**

### **§607. Determination of Remedial Costs; Demand to PRPs**

A. Timing. The Office of Environmental Assessment may at any time prepare a written determination of the cost of partial or complete remediation of a site. The department may revise its determination in writing at any time thereafter.

B. – D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2193 (November 1999), amended LR 26:2513 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

## **Chapter 7. Settlement and Negotiations**

### **§705. Negotiations**

A. – B.4. ...

C. Negotiations after Issuance of Administrative Orders. PRPs who have received unilateral administrative orders may negotiate with the Office of Environmental Assessment for dismissal of the administrative order upon execution of a cooperative agreement unless an emergency situation has been declared or the department determines that a stay of remedial actions or of enforcement will be detrimental to the public health, welfare, or the environment. The department has sole discretion in determining whether to enter into negotiations after issuance of a unilateral administrative order. Except by written determination of the department, no request for or conduct of negotiations in accordance with this Section shall serve to stay or modify the terms of any such unilateral administrative order.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2194 (November 1999), amended LR 26:2513 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

### **§709. De Minimis Settlements**

A. – C. ...

D. To attain the goal set forth in Subsection C of this Section, the de minimis settlement should ordinarily involve a cash payment to the Office of Management and Finance by the settling party or parties, rather than a commitment to perform work. Where a remedial action is being conducted in whole or in part by PRPs, it may be appropriate for settling de minimis parties to deposit the amount paid in accordance with the de minimis settlement into a site-specific trust fund to be administered by a third party trustee and used for remedial action for that site.

E. – F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2195 (November 1999), amended LR 26:2513 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

## **§711. Mixed Funding**

A. – B. ...

C. Eligibility and Mixed Funding Criteria. The Office of Environmental Assessment shall make a determination whether a proposal is eligible for funding. The only circumstances under which mixed funding can be approved by the department are when the funding will achieve both:

C.1. – E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2195 (November 1999), amended LR 26:2513 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

## **Chapter 8. Public Information and Participation**

### **§801. Public Information**

A. – B. ...

1. Information Repositories. The Office of Environmental Assessment may establish and maintain an information repository in a public location near the site. If a repository is established, PRPs shall provide the department with copies of all necessary documents.

2. – 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2196 (November 1999), amended LR 26:2513 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

### **§803. Public Participation**

A. In order to ensure that the public has an opportunity to comment on site-related decisions, the Office of Environmental Assessment, or PRPs as directed by the department, shall provide opportunities for public participation as listed in this Section. All public participation activities undertaken by PRPs shall be performed under the direction and approval of the department.

1. – 1.b. ...

2. For sites where the secretary has made a demand for remedial action in accordance with R.S. 30:2275, the department shall, upon written request, provide an opportunity for a public meeting prior to approval of a site remedial investigation plan and selection of a remedy. Additionally, if a written request is received, the department shall hold a public comment period of not more than 60 calendar days duration prior to approval of a site remedial investigation plan and selection of a site remedy. Written requests shall be mailed to the Office of Environmental Assessment.

a. ...

b. Prior to any public comment period, the Office of Environmental Assessment, or PRPs as directed by the department, shall place a copy of the document being reviewed in a public location near the site.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2196 (November 1999), amended LR 26:2513 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

## **Chapter 9. Voluntary Remediation**

### **§911. Application Process**

A. ...

1. a Voluntary Remedial Investigation Application Form VCP001, available from the Office of Environmental Assessment and on the department's website, with required attachments, accompanied by the remedial investigation work plan review fee; and

2. – 2.f. ...

B. Voluntary Remediation Applications. Prior to implementation of a voluntary remedial action at a site, applicants must submit a voluntary remediation application to the Office of Environmental Assessment for review and final approval. The application shall consist of the following:

1. a Voluntary Remediation Application Form VCP002, available from the Office of Environmental Assessment and on the department's website, with required attachments, accompanied by the remedial action plan review fee;

B.2. – C.1. ...

2. After the application is accepted for public review and before the beginning of the public comment period provided in Subsections D and F of this Section, the applicant shall provide the number of copies of the accepted application specified by the administrative authority to the Office of Environmental Assessment.

3. ...

D. Public Notice. Upon acceptance of the voluntary remediation application, as set forth in Subsection C of this Section, the applicant must place a public notice of the proposed voluntary remedial action plan in the local newspaper of general circulation in the parish where the voluntary remediation site is located. The public notice shall be a single classified advertisement at least 4 inches by 6 inches in size in the legal or public notices section. The applicant must provide proof of publication of the notice to the Office of Environmental Assessment prior to final approval of the plan. The public notice shall:

1. – 2. ...

3. indicate that comments shall be submitted to the Office of Environmental Assessment (including the contact person, mailing address, and physical address), as well as indicate the deadline for submission of comments;

4. – 5. ...

E. Direct Notice to Landowners. Within five days of the public notice in Subsection D of this Section, the applicant must send a direct written notice of the voluntary remedial action plan to persons owning immovable property contiguous to the voluntary remediation site. This notice shall be sent to persons listed as owners of the property on the rolls of the parish tax assessor as of the date on which the voluntary remediation application is submitted. The notice must be sent by certified mail and contain the same information that is provided in the public notice. Return receipts or other evidence of the receipt or attempted delivery of the direct notice must be provided to the Office of Environmental Assessment prior to final approval of the plan.

F. Public Hearing and Comment

1. Comments on the voluntary remedial action plan shall be accepted by the Office of Environmental Assessment for a period of 30 days after the date of the

public notice and shall be fully considered by the division prior to final approval of the plan. However, if the administrative authority determines a shorter or longer comment period is warranted, the administrative authority may provide for a shorter or longer comment period in the public notice described in Paragraph D.1 of this Section. Also, the comment period provided in the public notice may be extended by the administrative authority if the administrative authority determines such an extension is warranted.

F.2. – H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:516 (April 2001), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:

### **§913. Completion of Voluntary Remedial Actions**

A. – D. ...

1. the applicant provides written notice to the Office of Environmental Assessment at least 15 days in advance of the termination;

2. – 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:518 (April 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:

## **Part VII. Solid Waste**

### **Subpart 1. Solid Waste Regulations**

#### **Chapter 1. General Provisions and Definitions**

##### **§113. Public Information Service**

A. – B. ...

C. Mailing List. The department shall maintain a mailing list of groups or individuals interested in public hearings and other such activities of the Office of Environmental Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:1019 (June 2007), LR 33:

#### **Chapter 3. Scope and Mandatory Provisions of the Program**

##### **§301. Exempted Waste**

A. – A.1. ...

a. agricultural-crop residues, aquacultural residues, silvicultural residues, and other agricultural wastes stored, processed, or disposed of on the site where the crops are grown or that are stored, processed, or disposed in accordance with a best management practice plan that has been provided to the Office of Environmental Services and approved in writing by the Department of Agriculture, and within the jurisdiction of the Department of Agriculture;

1.b. – 2.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), LR 28:780 (April 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:1027 (June 2007), LR 33:

**§303. Wastes Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations**

A. – A.9. ...

10. woodwastes that are beneficially-used in accordance with a Best Management Practice Plan approved in writing by the Department of Agriculture and submitted to the Office of Environmental Services, provided that the following requirements are met:

a. the generator shall notify the Office of Environmental Services of such activity at each site in accordance with LAC 33:VII.401.A;

b. the generator shall submit to the Office of Management and Finance a disposer annual report that reports amounts of woodwastes beneficially-used at each site;

11. – 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), repromulgated LR 27:703 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:1027 (June 2007), LR 33:

**§305. Facilities Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations**

A. – A.4. ...

a. the facility shall notify the Office of Environmental Services of such activity in accordance with LAC 33:VII.401.A; and

b. the facility shall submit to the Office of Management and Finance a disposer annual report in accordance with the standards for construction/demolition-debris disposal facilities found in LAC 33:VII.721.B.1;

c. the facility owner shall update the parish mortgage and conveyance records by entering the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with the knowledge of the contents of the facility. An example of the form to be used for this purpose is provided in LAC 33:VII.3011.Appendix F. The facility shall provide the Office of Environmental Services with a true copy of the document filed and certified by the parish clerk of court;

5. – 8. ...

a. the facility shall notify the Office of Environmental Services of such activity in accordance with LAC 33:VII.401.A;

b. the facility shall submit to the Office of Management and Finance a disposer annual report in

accordance with the standards for woodwaste disposal facilities in LAC 33:VII.721.B.1;

8.c. – 9.c. ...

d. the facility shall notify the Office of Environmental Services of its activities in accordance with LAC 33:VII.401.A;

e. the facility shall submit to the Office of Management and Finance a disposer annual report that accurately estimates volumes of waste disposed in accordance with the standards for woodwaste disposal facilities found in LAC 33:VII.721.B.1; and

9.f. – 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264 (June 2000), LR 26:2515, 2609 (November 2000), repromulgated LR 27:703 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:1028 (June 2007), LR 33:

**§307. Exemptions**

A. – C.1. ...

2. Persons granted emergency exemptions by the administrative authority shall publish a notice to that effect in the legal-notices section of a newspaper of general circulation in the area and parish where the facility requesting the exemption is located. The notice shall be published one time as a single classified advertisement in the legal-notices section of a newspaper of general circulation in the area and parish where the facility is located, and one time as a classified advertisement in the legal-notices section of the official journal of the state. The notice shall describe the nature of the emergency exemption and the period of time for which the exemption was granted. Proof of publication of the notice shall be forwarded to the Office of Environmental Services within 60 days after the granting of an emergency exemption.

D. – E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:1029 (June 2007), LR 33:

**§311. Submittal of Information by Persons Other than Permit Holder or Applicant**

A. Documentation must be provided to the Office of Environmental Services by the permit holder or applicant authorizing other persons to submit information on their behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:1030 (June 2007), LR 33:

**Chapter 4. Administration, Classifications, and Inspection Procedures for Solid Waste Management Systems**  
**[Formerly Chapter 5.Subchapter A]**

**§401. Notification**  
**[Formerly §503]**

A. Persons who generate industrial solid waste and/or persons who transport, process, or dispose of solid waste shall, within 30 days after they become subject to these regulations, notify the Office of Environmental Services in writing of such activity. A form to be used for notification shall be obtained from the Office of Environmental Services or through the department's website.

B. – C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1031 (June 2007), amended LR 33:

**§403. Existing Facilities Classification**  
**[Formerly §505]**

A. – A.2. ...

3. Within 30 days after the classification inspection, any person who processes or disposes of solid waste shall file with the Office of Environmental Services a notice of his intent to upgrade or close a facility.

B. – E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1031 (June 2007), amended LR 33:

**§407. Inspection Types and Procedures**  
**[Formerly §509]**

A. – B. ...

C. Initial Start-Up Inspection—Newly Permitted Facilities

1. For existing facilities, the initial start-up inspection shall be made after a standard permit has been issued, all upgrading measures are completed, new activities as a result of upgrade are implemented, and certification is submitted to the Office of Environmental Services by a professional engineer, licensed in the state of Louisiana, that the facility is constructed and has been upgraded in accordance with the permit.

2. For new facilities, the initial start-up inspection shall be made after a standard permit has been issued, construction measures have been completed, and certification is submitted to the Office of Environmental Services by a professional engineer, licensed in the state of Louisiana, that the facility is constructed in accordance with the permit.

3. All start-up inspections shall be initiated within 10 working days of receipt of certification by the Office of Environmental Services unless a longer time period is set by mutual agreement.

4. ...

D. Construction Inspections. At least 10 days prior to commencing construction of a liner, leak-detection system, leachate-collection system, or monitoring well at a Type I or Type II facility, the permit holder shall notify the Office of Environmental Services, in writing, of the date on which

construction will begin, in order to allow a representative of the department the opportunity to witness the construction.

E. Unit Start-Up Inspections—All Facilities

1. Start-up inspections for new units of a standard permitted facility shall be conducted after completion of all construction measures and after submittal of certification to the Office of Environmental Services by a professional engineer licensed in the state of Louisiana, that the unit is constructed in accordance with the permit.

2. All start-up inspections shall be initiated within 10 working days of receipt of certification by the Office of Environmental Services.

3. ...

F. Modification Start-Up Inspections—All Facilities

1. Start-up inspections for modified construction of a standard permitted facility shall be conducted after construction measures of the modification are completed and certification is submitted to the Office of Environmental Services by a professional engineer licensed in the state of Louisiana, that the modified feature/unit has been constructed in accordance with the modification approved by the administrative authority and any conditions specified in such approval.

2. ...

G. Closure Inspections. Closure inspections will be conducted within 30 days after the Office of Environmental Services has received written notice from the permit holder that closure requirements have been met in accordance with the approved closure plan and the permit holder has filed a request for a closure inspection. Closure inspections shall be conducted before backfilling of a facility takes place. The administrative authority reserves the right to determine if a facility has been closed properly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1032 (June 2007), amended LR 33:

**Chapter 5. Solid Waste Management System**  
**Subchapter A. General Standards for Nonpermitted Facilities**  
**[Formerly Chapter 7.Subchapter A]**

**§501. Standards Governing Industrial Solid Waste Generators**  
**[Formerly §701]**

A. Annual Reports

1. Generators of industrial solid waste shall submit annual reports to the Office of Management and Finance listing the types and quantities, in wet-weight tons per year, of industrial solid waste they have disposed of off-site.

2. – 3. ...

4. The report shall be submitted to the Office of Management and Finance by August 1 of each reporting year.

A.5. – B.1. ...

a. submit to the Office of Environmental Services a generator notification form, which is available on the department's website or by contacting the Office of Environmental Services, that includes analysis, analytical data, and/or process knowledge that confirms that the waste is not a characteristic or listed hazardous waste as defined in LAC 33:Part V or by federal regulations; and

B.1.b. – C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1033 (June 2007), amended LR 33:

**§508. Standards Governing Non-Processing Transfer Stations for Solid Waste**

A. – A.1. ...

2. notify the Office of Environmental Services in accordance with LAC 33:VII.401;

A.3. – L. ...

M. All waste shall be removed to a permitted facility at closure. Notification of closure shall be submitted to the Office of Environmental Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1034 (June 2007), amended LR 33:

**Subchapter B. Permit Administration**

**§509. Permit System**

**[Formerly §511, §315.E and F, and §513.F.5-7]**

A. – A.1. ...

2. Generators that are not processors or disposers of solid waste are not required to secure a permit. Generators of industrial solid waste shall notify the Office of Environmental Services in accordance with LAC 33:VII.501.B. Generators of industrial solid waste are subject to the applicable standards provided in LAC 33:VII.501.

3. Transporters that are not processors or disposers of solid waste are not required to secure a permit. Transporters of solid waste shall notify the Office of Environmental Services in accordance with LAC 33:VII.401.A and B. Transporters of solid waste are subject to the applicable standards provided in LAC 33:VII.505.

4. Collection facilities and non-processing transfer stations at which no solid waste is processed or disposed of are not required to secure a permit. Non-processing transfer stations and collection facilities are subject to the standards found in LAC 33:VII.503, 507, and 508 and shall notify the Office of Environmental Services in accordance with LAC 33:VII.401.A and B.

A.5. – B.2. ...

C. Existing Facilities Not Previously Classified or Not Presently Operating Under a Standard Permit

1. Only those existing facilities that the administrative authority classifies for upgrading may apply for a standard permit. The person notifying the Office of Environmental Services shall be issued a temporary permit and may continue operations in accordance with the interim operational plan, pending a decision on the standard permit application.

C.2. – D.2. ...

a. Processing and/or disposal facilities with an effective standard permit shall submit to the Office of Environmental Services a new permit application at least 455 calendar days before the expiration date of the standard permit, unless permission for later filing is granted by the administrative authority. If the reapplication is submitted on or before the deadline above, and the administrative authority does not issue a final decision on the reapplication

on or before the expiration date of the standard permit, the standard permit shall remain in effect until the administrative authority issues a final decision.

D.2.b. – F.4. ...

5. Public Opportunity to Request a Hearing. Any person may, within 30 days after the date of publication of the newspaper notice (LAC 33:VII.513.F.3), request that the administrative authority consider whether a public hearing is necessary. If the administrative authority determines that the requests warrant it, a public hearing will be scheduled. If the administrative authority determines that the requests do not raise genuine and pertinent issues, the Office of Environmental Services shall send the person requesting the hearing written notification of the determination. The request for a hearing shall be in writing and shall contain the name and affiliation of the person making the request and the comments in support of or in objection to the issuance of a permit.

6. Public Notice of a Public Hearing. If the administrative authority determines that a hearing is necessary, notices shall be published at least 20 days before a fact-finding hearing in the official journal of the state and in the official journal of the parish where the facility is located. The notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the official journal of the state shall be the only public notice required. Those persons on the Office of Environmental Services mailing list for hearings shall be mailed notice of the hearing at least 20 days before a public hearing. A notice shall also be published in the departmental bulletin, if available.

7. Receipt of Comments Following a Public Hearing. Comments received by the Office of Environmental Services until the close of business 30 days after the date of a public hearing shall be reviewed by the Office of Environmental Services.

G. – G.2. ...

3. The applicant shall provide appropriate documentation to the Office of Environmental Services that the proposed use does not violate zoning or other land-use regulations that exist at the time of the submittal of the standard permit application.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1035 (June 2007), amended LR 33:

**§513. Permit Process for Existing Facilities and for Proposed Facilities**

A. Applicant Public Notice

1. The prospective applicant shall publish a notice of intent to submit an application for a standard permit. This notice shall be published 1 to 45 days prior to submission of the application to the Office of Environmental Services. This notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of this state and in a major local newspaper of general circulation. If the affected area is in the same parish or area as the official journal of the state, a single

classified advertisement in the legal or public notices section of the official journal of the state will be the only public notice required.

A.2. – B.1. ...

2. Submittal of Permit Applications

a. Any applicant for a standard permit for existing or proposed processing and disposal facilities shall complete Part I, Part II, and Part III of the standard permit application, following the instructions for the appropriate facility class in LAC 33:VII.519, 521, 522, and 523, and submit six copies to the Office of Environmental Services. Each individual copy of the application shall be a standard three-ring-bound document measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

b. ...

c. The completed separate standard permit application for each existing facility shall be submitted to the Office of Environmental Services within 180 days after issuance of the temporary permit.

C. Notices to Parish Governing Authorities. As provided in R.S. 30:2022, upon receipt of a permit application the Office of Environmental Services shall provide written notice on the subject matter to the parish governing authority, which shall promptly notify each parish municipality affected by the application.

D. – D.3. ...

E. Standard Permit Applications Deemed Unacceptable or Deficient

1. Applications deemed unacceptable for technical review will be rejected. For the administrative authority to reconsider the application, the applicant shall resubmit the entire standard permit application to the Office of Environmental Services, including the review fee, by a reasonable due date set by the administrative authority.

E.2. – F.2. ...

3. After the six copies are submitted to the Office of Environmental Services, notices shall be placed in the department's bulletin (if one is available), the official journal of the state, and in a major local newspaper of general circulation. The Office of Environmental Services shall publish a notice of acceptance for review one time as a single classified advertisement in the legal or public notices section of the official journal of the state and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the official journal of the state shall be the only public notice required. The notices will solicit comment from interested individuals and groups. Comments received by the administrative authority within 30 days after the date the notice is published in the local newspaper shall be reviewed by the Office of Environmental Services. The notice shall be published in accordance with the sample public notice provided by the Office of Environmental Services. The applicant is responsible for providing the Office of Environmental Services with proof of publication.

G. – G.2. ...

H. Public Notice of Permit Issuance. No later than 10 days following the issuance of a standard permit, the permit holder shall publish a notice of the issuance of the standard

permit. This notice shall be published in the official journal of the state and in a major local newspaper of general circulation. The notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of the state, and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the official journal of the state shall be the only public notice required. The notice shall be published in accordance with the sample public notice provided by the Office of Environmental Services. The applicant is responsible for providing the Office of Environmental Services with proof of publication.

I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2519 (November 2000), amended by the Office of Environmental Assessment, LR 30:2032 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2488 (October 2005), LR 33:1037 (June 2007), LR 33:

**Subchapter C. Permit System for Facilities Classified for Upgrade or Closure**

**§515. Permit Process for Existing Facilities Classified for Closure**

A. Closure Plan Review and Evaluation. LAC 33:VII.403 and Chapters 7 and 8 establish the criteria used by the Office of Environmental Services in evaluating closure plans.

B. Submittal of Closure Plans

1. Permit holders for facilities classified for closure shall submit to the Office of Environmental Services four bound copies of a closure plan within 60 days after issuance of the temporary permit for the facility. Each individual copy of the plan shall be a standard three-ring-bound document measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

2. – 3. ...

C. Closure Plans Determined Unacceptable or Deficient

1. Closure plans that are determined unacceptable for a technical review will be rejected. The permit holder shall be required to resubmit the entire application to the Office of Environmental Services, including the review fee, by a date set by the administrative authority.

2. ...

D. Closure Plans Deemed Technically Complete. Closure plans that have been deemed technically complete shall be approved. Within 30 days after receipt of closure plan approval, the permit holder shall submit to the Office of Environmental Services three copies of the closure plan that incorporate all revisions made during the closure plan review process. Additional copies will be required if deemed necessary by the administrative authority. Each copy shall be provided as a standard three-ring-bound document measuring 8 1/2 by 11 inches, and shall include appropriate tabbing for all appendices, figures, etc. Closure plans shall incorporate revisions made during the review process. Closure plans that present revisions made during the review

process as a separate supplement to the closure plan shall not be accepted.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2520 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2489 (October 2005), LR 33:1038 (June 2007), LR 33:

## **§517. Modifications of Permits and Other**

### **Authorizations to Operate**

#### **A. Modification Requests**

1. The permit holder shall notify the Office of Environmental Services, in advance, of any change in a facility or deviation from a permit. Such notification shall detail the proposed modification and shall include an assessment of the effects of the modification on the environment and/or the operation. Modification details shall include, but not be limited to, a summary detailing the modification request and all appropriate drawings, narratives, etc., which shall illustrate and describe the originally permitted representations and the proposed modifications thereto. New language requested in the permit narrative and existing language requested to be deleted from the permit narrative shall be identified therein.

a. Initially, six copies of all modification requests shall be provided to the Office of Environmental Services. Each individual copy of the document shall be 8 1/2 by 11 inches and shall be bound in a standard three-ring binder. The modification shall incorporate, in the appropriate sections, all required plans, narratives, and revisions made during the review process and shall include appropriate tabbing, if applicable, for all appendices, figures, etc.

b. ...

2. All notifications of proposed changes in ownership of a permit for a facility are the responsibility of the permittee and shall include the following, to be submitted to the Office of Environmental Services:

A.2.a. – B.1.j. ...

2. Permit modifications that require public notice and that have been determined by the Office of Environmental Services to be technically complete will be accepted for public review. When the permit modification is accepted for public review, the administrative authority shall request an additional six copies, or more if necessary. The copies will be distributed for public review as follows:

a. three copies to the Office of Environmental Services in Baton Rouge;

b. – d. ...

3. After distribution of the permit modification, a notice shall be published by the department in the official journal of the state and in the official journal of the parish where the facility is located. The notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of the state, one time as a classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located, and one time in the department's bulletin. The cost of the publication shall be borne by the applicant. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the

official journal of the state shall be the only public notice required. The notice shall solicit comments from interested individuals and groups. Comments delivered or received within 30 days after the date the notices are published shall be reviewed by the Office of Environmental Services. The notice shall be published in accordance with a sample public notice provided by the Office of Environmental Services.

B.4. – D. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014.2.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2520 (November 2000), amended by the Office of Environmental Assessment, LR 30:2033 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2430, 2490 (October 2005), LR 33:1039 (June 2007), LR 33:

## **Subchapter D. Permit Application**

### **§519. Part I: Permit Application Form**

A. The applicant shall complete a standard permit application Part I Form obtained from the Office of Environmental Services or the department's website. The form requires the following information:

1. – 18. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1040 (June 2007), LR 33:

## **Chapter 7. Solid Waste Standards**

### **Subchapter A. Landfills, Surface Impoundments, Landfarms**

#### **§711. Standards Governing Landfills (Type I and II)**

A. – B.6.d. ...

#### **C. Facility Administrative Procedures**

##### **1. Reports**

a. The permit holder shall submit annual reports to the Office of Management and Finance indicating quantities and types of solid waste (expressed in wet-weight tons per year, or for landfarms, expressed in both wet- and dry-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. The annual disposer's report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period and to determine remaining capacity shall be submitted to the Office of Management and Finance. A form to be used for this purpose shall be obtained from the Office of Management and Finance or through the department's website.

b. ...

c. Annual reports shall be submitted to the Office of Management and Finance by August 1 of each reporting year.

1.d. – 3.a. ...

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator

certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services shall be notified within 30 days of any changes in the employment status of certified operators.

D. – D.3.a.i. ...

ii. The permit holder or applicant subject to air-monitoring requirements shall submit to the Office of Environmental Services a comprehensive air-monitoring plan that will limit methane gas levels to less than the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

ii.(a). – iii.(a). ...

(b). within 30 days of detection, submit a remediation plan to the Office of Environmental Services for the methane gas releases. The plan shall describe the nature and extent of the problems and the proposed remedy and shall include an implementation schedule. The plan shall be implemented within 60 days of detection.

a.iv. – c.i. ...

ii. A schedule of the type and frequency of vector control measures to be used shall be submitted to the Office of Environmental Services for approval in the operational plan.

3.d. – 5.c. ...

6. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.6.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services.

c. – e. ...

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

1.a. – 3.a.ii. ...

iii. The Office of Environmental Services shall be notified after the final cover is applied.

a.iv. – c. ...

d. The permit holder shall update the parish mortgage and conveyance records by recording the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with knowledge of the contents of the facility. An example of the form to be used for this purpose is provided in LAC 33:VII.3011.Appendix F. The facility shall provide the Office of Environmental Services with a true copy of the document filed and certified by the parish clerk of court.

4. Upon determination by the administrative authority that a facility has completed closure in accordance with an

approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance.

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services approves closure. The length of the post-closure care period for landfills may be:

1.a. – 3. ...

a. maintaining the integrity and effectiveness of the final cover (including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events), preventing run-on and runoff from eroding or otherwise damaging the final cover; and providing annual reports to the Office of Environmental Services on the integrity of the final cap (The Office of Environmental Compliance shall be notified of any problems and corrective action measures associated with the integrity and effectiveness of the final cover.);

b. – d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2523 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2492 (October 2005), LR 33:1047 (June 2007), LR 33:

### **§713. Standards Governing Surface Impoundments (Type I and II)**

A. – B.4.d. ...

C. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. If applicable, the annual disposer's report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal and to determine remaining capacity during the annual-reporting period shall be submitted to the Office of Management and Finance. A form to be used for this purpose shall be obtained from the Office of Management and Finance or through the department's website.

b. ...

c. Annual reports shall be submitted to the Office of Management and Finance by August 1 of each reporting year.

1.d. – 3.a. ...

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal



System Operators and the Office of Environmental Services shall be notified within 30 days of any changes in the employment status of certified operators.

D. – D.3.a.i. ...

ii. The permit holder or applicant subject to air-monitoring requirements shall submit to the Office of Environmental Services a comprehensive air-monitoring plan that will limit methane gas levels to less than the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

ii.(a). – iii.(a). ...

(b). within 30 days of detection, submit a remediation plan for the methane gas releases to the Office of Environmental Services. The plan shall describe the nature and extent of the problem and the proposed remedy, and shall include an implementation schedule. The plan shall be implemented within 60 days of detection.

3.a.iv. – 4. ...

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services.

c. – e. ...

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

1.a. – 3.b.ii. ...

iii. sampling and analyses of the uncontaminated soils in the general area of the facility for a determination of background levels using the indicator parameters selected. A diagram showing the location of the area proposed for the background sampling, along with a description of the sampling and testing methods, shall be provided and the Office of Environmental Services shall be notified at least five days prior to any sampling event;

iv. – v. ...

vi. analyses to be sent to the Office of Environmental Services confirming that clean closure has been achieved;

vii. ...

viii. a statement from the permit holder indicating that, after the closure requirements have been met, the permit holder will file a request for a closure inspection with the Office of Environmental Services before backfilling takes place. The administrative authority shall determine whether the facility has been closed properly.

c. – c.i. ...

ii. The Office of Environmental Services shall be notified after the final cover is applied.

3.c.iii. – 5. ...

6. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance.

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services approves closure. The length of the post-closure care period for surface impoundments may be:

1.a. – 2.b. ...

i. maintaining the integrity and effectiveness of the final cover (including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events), preventing run-on and runoff from eroding or otherwise damaging the final cover; and providing annual reports to the Office of Environmental Services on the integrity of the final cap;

ii. – iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2524 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2493 (October 2005), LR 33:1053 (June 2007), LR 33:

## **§715. Standards Governing Landfarms (Type I and II)**

A. – B.2.b. ...

C. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance indicating quantities and types of solid waste (expressed in wet-weight and dry-weight tons per year) received from in-state generators and from out-of-state generators during the reporting period. The annual disposer's report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period shall be submitted to the Office of Management and Finance. A form to be used for this purpose shall be obtained from the Office of Management and Finance or through the department's website.

b. ...

c. Annual reports shall be submitted to the Office of Management and Finance by August 1 of each reporting year.

d. – e. ...

f. The following reports shall be submitted to the Office of Environmental Services:

i. ...

ii. annual reports of the analysis of all test results on the soils, land-use, and crop information, calculated amounts of waste applied per acre, total amounts of nitrogen applied per acre, and cumulative-metals loading. Annual reports shall be submitted to the Office of Environmental

Services for a minimum of three years for Type II landfarms and 10 years for Type I landfarms after closure and shall contain analyses of all test results of the soils. The post-closure monitoring annual reporting may be reduced for certain types of landfarms if the permit holder demonstrates to the administrative authority's satisfaction that such a change is warranted.

2. – 3.a. ...

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services shall be notified within 30 days of any changes in the employment status of certified operators.

D. – D.4. ...

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services.

c. – e. ...

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

a. – c. ...

2. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance.

3. – 3.e. ...

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services approves closure. The length of the post-closure care period for landfarms may be:

1.a. – 3.a. ...

b. Annual reports shall be submitted to the Office of Environmental Services for a period of three years after closure and shall contain results of analyses of all soil/waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR

26:2525 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2493 (October 2005), LR 33:1058 (June 2007), LR 33:

## **Subchapter B. Solid Waste Processors**

### **§717. Standards Governing All Type I-A and II-A Solid Waste Processors**

A. – D.1. ...

2. A design for surfacing natural soils that do not meet the requirement in Paragraph D.1 of this Section shall be prepared and installed under the supervision of a professional engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering and hydrogeology. Written certification by the engineer that the surface satisfies the requirements of Paragraph D.1 of this Section shall be provided to the Office of Environmental Services.

D.3. – E.2.b. ...

F. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance indicating quantities and types of solid waste (expressed in both dry- and wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the Office of Management and Finance. A form to be used for this purpose shall be obtained from the Office of Management and Finance or through the department's website.

b. ...

c. Annual reports shall be submitted to the Office of Management and Finance by August 1 of each reporting year.

1.d. – 3.a. ...

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services shall be notified within 30 days of any changes in the employment status of certified operators.

G. – G.3.h.i ...

ii. Testing. Testing procedures, schedules, and methods shall be submitted to the Office of Environmental Services for review and approval before disposal operations begin. Disposal of ash shall be only in a permitted Type I facility. Processing of ash shall be only in a permitted Type I-A facility.

4. ...

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph G.5.a of this Section shall be

conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services.

G.5.c. – H.2. ...

#### I. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

1.a. – 2.b. ...

c. The permit holder shall verify that the underlying soils have not been contaminated due to the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.713.E.3-6 shall be provided to the administrative authority. The Office of Environmental Services shall conduct a closure inspection to verify that the facility was closed in accordance with the approved closure plan.

3. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2526, 2610 (November 2000), repromulgated LR 27:704 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2494 (October 2005), LR 33:1061 (June 2007), LR 33:

### Subchapter C. Minor Processing and Disposal Facilities

#### §719. Standards Governing All Type III Processing and Disposal Facilities

[Formerly some of the provisions in Subsections A, B, and E existed in §521.]

A. – B.4. ...

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph B.4 of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services.

B.5. – D.1. ...

2. A design for surfacing natural soils that do not meet the requirement in Paragraph D.1 of this Section shall be prepared and installed under the supervision of a professional engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering and hydrogeology. Written certification by the engineer that the surface satisfies

the requirements of Paragraph D.1 of this Section shall be provided to the Office of Environmental Services.

D.3. – E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2495 (October 2005), LR 33:1065 (June 2007), LR 33:

#### §721. Standards Governing Construction and Demolition Debris and Woodwaste Landfills (Type III)

A. – A.3.b. ...

##### B. Facility Administrative Procedures

###### 1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance indicating quantities and types of solid waste (expressed in both dry- and wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing or disposal during the annual-reporting period shall be submitted to the Office of Management and Finance. A form to be used for this purpose shall be obtained from the Office of Management and Finance or through the department's website.

b. ...

c. Annual reports shall be submitted to the Office of Management and Finance by August 1 of each reporting year.

1.d. – 3.a. ...

b. Type III facilities receiving construction and demolition debris and woodwaste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services shall be notified within 30 days of any changes in the employment status of certified operators. The requirements of this Subparagraph are not applicable to facilities meeting the criteria of LAC 33:VII.305.A.4.

C. – C.4. ...

##### 5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph C.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services.

c. – d. ...

##### D. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services in

writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

1.a. – 2.f. ...

### 3. Closure Requirements

#### a. Final Cover

i. Final cover shall consist of a minimum of 24 inches of silty clays and 6 inches of topsoil cover for supporting vegetative growth; however, other covers that provide a more practical answer and satisfy the purposes of minimizing fire hazards, odors, vector food and harborage, and infiltration of precipitation, as well as discouraging scavenging and limiting erosion, may be submitted to the Office of Environmental Services for approval.

ii. ...

iii. The Office of Environmental Services shall be notified prior to planting a ground cover, and the permit holder shall notify the Office of Environmental Services once the ground cover is established.

iv. Quality-assurance/quality-control procedures shall be developed and implemented to ensure that the final cover is designed, constructed, and installed properly. An engineering certification verifying that the facility meets the final cover requirements shall be prepared under the supervision of a professional engineer licensed in the state of Louisiana. This certification shall be submitted to the Office of Environmental Services for approval.

a.v. – b. ...

c. The permit holder shall update the parish mortgage and conveyance records by recording the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with knowledge of the contents of the facility. An example of the form to be used for this purpose is provided in LAC 33:VII.3011.Appendix F. The facility shall provide the Office of Environmental Services with a true copy of the document filed and certified by the parish clerk of court.

4. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority may release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance.

#### E. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services approves closure. The time frame of post-closure care may be lengthened, if necessary, to protect human health or the environment in accordance with LAC 33:I.Chapter 13.

2. The integrity of the grade and cap shall be maintained for no less than three years after the date of the administrative authority's approval of the closure of the facility. The Office of Environmental Services shall be notified of any problems and corrective action measures associated with the integrity and effectiveness of the final cover.

3. Annual reports concerning the integrity of the cap shall be submitted to the Office of Environmental Services for a period of three years after closure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), LR 31:1577 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2495 (October 2005), LR 33:1067 (June 2007), LR 33:

## §723. Standards Governing Composting Facilities

A. – B. ...

### C. Facility Administrative Procedures

#### 1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance indicating quantities and types of solid waste (expressed in both dry- and wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the Office of Management and Finance. A form to be used for this purpose shall be obtained from the Office of Management and Finance or through the department's website.

b. ...

c. Annual reports shall be submitted to the Office of Management and Finance by August 1 of each reporting year.

1.d. – 3.a. ...

b. Type III facilities receiving solid waste for composting shall have the number and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services shall be notified within 30 days of any changes in the employment status of certified operators.

D. – D.5.c. ...

#### 6. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services and with the local fire department and the closest hospital or clinic. The plans shall be updated and submitted annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.6.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services.

c. – d. ...

#### E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

1.a. – 2.b. ...

c. The permit holder shall verify that the underlying soils have not been contaminated in the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.713.E.4 and 6 shall be provided to the Office of Environmental Services. The Office of Environmental Services shall conduct a closure inspection to verify that the facility was closed in accordance with the approved closure plan.

3. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2496 (October 2005), LR 33:1069 (June 2007), LR 33:

## **§725. Standards Governing Separation and Woodwaste Processing Facilities (Type III)**

A. – A.2.b. ...

B. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance indicating quantities and types of solid waste (expressed in both dry- and wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the Office of Management and Finance. A form to be used for this purpose shall be obtained from the Office of Management and Finance or through the department's website.

b. ...

c. Annual reports shall be submitted to the Office of Management and Finance by August 1 of each reporting year.

1.d. – 2.a. ...

b. The permit holder shall maintain records of transporters transporting waste for processing at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the Office of Environmental Services.

2.c. – 3. ...

4. Type III facilities receiving solid waste for processing shall have the number and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services shall be notified within 30 days of any changes in the employment status of certified operators.

C. – C.4. ...

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph C.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services.

c. – d. ...

D. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

1.a. – 2.b. ...

c. The permit holder shall verify that the underlying soils have not been contaminated from the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.713.E.4 and 6 shall be provided to the Office of Environmental Services. The Office of Environmental Compliance shall conduct a closure inspection to verify that the facility was closed in accordance with the approved closure plan.

3. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), LR 22:280 (April 1996), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2026 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2496 (October 2005), LR 33:1073 (June 2007), LR 33:

## **Chapter 8. Standards Governing General Facility Geology, Subsurface Characterization, and Facility Groundwater Monitoring for Type I, I-A, II, II-A, and III Facilities [Formerly §709.C-E]**

### **§803. Subsurface Characterization**

A. – A.2.a. ...

b. Existing permitted facilities that are planning a lateral and/or vertical expansion or changing the permitted lowest point of excavation within the permitted footprint may submit a work plan to the Office of Environmental Services to demonstrate that an alternative to the

geotechnical borehole minimum spacing requirements set forth in Subparagraph A.2.a of this Section will achieve adequate characterization of the subsurface soils and groundwater conditions for the facility. The proposed alternative method shall include a demonstration that the subsurface soils and groundwater conditions have been adequately characterized or shall propose additional actions necessary to achieve adequate characterization. If the department concurs that adequate characterization has been performed, the spacing requirements of Subparagraph A.2.a of this Section may be waived.

c. – d. ...

e. All borings shall be continuously sampled to at least 30 feet below the elevation (NGVD) of the lowest point of excavation (or lowest point of the zone of incorporation, for landfarms), with the use of thin-wall and/or split-spoon devices or similar coring devices. After 30 feet, samples shall be at a maximum of 5-foot intervals. The Office of Environmental Services may approve other forms of boreholes logging on a case-by-case basis and with proper justification.

A.3. – C.2.i ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1075 (June 2007), amended LR 33:

### **§805. Facility Groundwater Monitoring**

A. – A.3.c.iv.(e). ...

4. Post Construction. Within 90 days after construction of the wells, the permit holder or applicant shall submit to the Office of Environmental Services well-completion details to verify that the wells were constructed according to the approved specifications and to document construction procedures. A permit modification fee will not be required. Well-completion details shall include, but are not limited to:

4.a. – 5.b.iii. ...

iv. The permit holder shall notify the Office of Environmental Services of the plugging and abandonment of monitoring wells or geotechnical borings and keep records of such abandonments.

A.6. – C.1. ...

#### **2. Initial Sampling**

a. For a new facility, monitoring wells shall be sampled and the groundwater monitoring data for a sampling event shall be submitted to the Office of Environmental Services before waste is accepted.

b. For an existing facility with no wells in place at the time of the application submittal or at the time at which the facility becomes subject to these regulations, the groundwater monitoring data shall be submitted to the Office of Environmental Services within 90 days after installation of the monitoring wells.

2.c. – 4. ...

5. The permit holder or applicant shall submit three bound copies (8 1/2 by 11 inches) of a report of all groundwater sampling results to the Office of Environmental Services no later than 90 days after each sampling event.

5.a. – 6. ...

a. submit to the Office of Environmental Services:

a.i. – b.i. ...

ii. submit a report to the Office of Environmental Services demonstrating that a source other than the facility being sampled caused the contamination or that the statistically significant increase resulted from an error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. If the administrative authority approves this demonstration, in writing, the permit holder may continue the detection monitoring program. If the administrative authority does not approve the demonstration, in writing, the permit holder shall establish an assessment monitoring program meeting the requirements of Subsection D of this Section within 90 days after the determination in this Paragraph is made.

C.7. – D.3.b. ...

4. No later than 90 days after the completion of the initial or subsequent sampling events for all assessment monitoring parameters or constituents required in Paragraph D.3 of this Section, the permit holder shall submit a report to the Office of Environmental Services, identifying the assessment monitoring parameters or constituents that have been detected. No later than 180 days after completion of the initial or subsequent sampling events for all assessment monitoring parameters or constituents required in Paragraph D.3 of this Section, the permit holder shall:

a. – c. ...

5. If the concentrations of all assessment monitoring parameters or constituents are shown to be at or below background values, using the statistical procedures in Paragraph B.6 of this Section or other EPA-approved methods for comparison to a fixed limit (such as an MCL), for two consecutive sampling events, the permit holder shall notify the Office of Environmental Services and, upon written approval of the administrative authority, may return to detection monitoring.

6. If the concentrations of any assessment monitoring parameters or constituents are above background values, but all concentrations are below the groundwater protection standard established under Paragraph D.8 of this Section, using the statistical procedures in Paragraph B.6 of this Section or other EPA-approved methods for comparison to a fixed limit (such as an MCL), the permit holder will be placed in assessment monitoring for the life of the facility or until the assessment monitoring parameters are below the established background values. As part of the corrective action development, the permit holder shall submit a work plan for approval to the Office of Environmental Services.

a. – a.v. ...

b. The Office of Environmental Services may request additional information based on the data submitted in the work plan.

7. If one or more assessment monitoring parameters or constituents are detected at statistically significant levels above the groundwater protection standard established in Paragraph D.8 of this Section, in any sampling event, using the statistical procedures in Paragraph B.6 of this Section or other EPA-approved methods for comparison to a fixed limit (such as an MCL), the permit holder shall, within 14 days of the determination, notify all appropriate local government officials and submit a report to the Office of Environmental Services identifying the assessment monitoring parameters or constituents that have exceeded the groundwater

protection standard. The permit holder shall comply with one of the following requirements.

a. ...

i. within 90 days after the determination is made, submit four bound copies (8 1/2 x 11 inches) of an assessment plan to the Office of Environmental Services, as well as any necessary permit modification, that provides for:

i.(a). – iv. ...

b. If the facility being sampled did not cause the contamination, the permit holder may submit a report to the Office of Environmental Services demonstrating that a source other than the facility being sampled caused the contamination, or the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. If the administrative authority approves this demonstration in writing, the permit holder shall continue assessment monitoring at the facility in accordance with this Subsection or may return to detection monitoring if the assessment monitoring parameters or constituents are below background as specified in Paragraph D.5 of this Section. Until such a written approval is given, the permit holder shall comply with Subparagraph D.7.a of this Section, including initiating an assessment of corrective action measures.

D.8. – E.4. ...

F. Selection of Remedy and Corrective Action Plan at Type II Landfills and Associated Surface Impoundments

1. Based on the results of the corrective measures assessment required in Subsection E of this Section, the permit holder shall select a remedy that, at a minimum, meets the standards of Paragraph F.2 of this Section. Within 180 days after initiation of the corrective measures assessment required in Subsection E of this Section, the permit holder shall submit four bound copies (8 1/2 by 11 inches) of a corrective action plan to the Office of Environmental Services describing the selected remedy, which will meet the requirements of Paragraphs F.2-4 of this Section and be in accordance with LAC 33:I.Chapter 13. The corrective action plan shall also provide for a corrective action groundwater monitoring program as described in Subparagraph G.1.a of this Section.

F.2. – G.1.b. ...

2. A permit holder may submit a report to the Office of Environmental Services demonstrating, based on information developed after implementation of the corrective action plan has begun or other information, that compliance with requirements of Paragraph F.2 of this Section are not being achieved through the remedy selected. A revised corrective action plan providing other methods or techniques that could practically achieve compliance with the requirements of Paragraph F.2 of this Section shall accompany the demonstration.

3. ...

4. The permit holder may submit a report to the Office of Environmental Services demonstrating that compliance with the requirements of Paragraph F.2 of this Section cannot be achieved with any currently available methods.

5. If the administrative authority approves, in writing, the demonstration submitted in accordance with Paragraph G.4 of this Section, the permit holder shall, within 30 days of the approval, submit a plan to the Office of Environmental Services (which includes an implementation schedule) to

implement alternate measures in accordance with LAC 33:I.Chapter 13:

5.a. – 10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1077 (June 2007), amended LR 33:

#### **Chapter 9. Enforcement**

##### **§909. Closing Unauthorized and Promiscuous Dumps**

A. – C.2.e. ...

f. record in the parish mortgage and conveyance records a document describing the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name of the person with knowledge of the contents of the facility, as well as providing the chemical levels remaining, if present. A true copy of the document, filed and certified by the parish clerk of court, shall be sent to the Office of Environmental Compliance; and

C.2.g. – F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and specifically 2025, 2039, and 2155.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2501 (October 2005), LR 33:1085 (June 2007), LR 33:

#### **Chapter 11. Solid Waste Beneficial Use and Soil Reuse**

##### **§1103. On-Site Soil Reuse Requirements**

A. – B.1. ...

2. the owner or operator of the property notifies the Office of Environmental Services, in writing, of his intent to reuse soil on-site, and attaches the following to the notification:

B.2.a. – C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1086 (June 2007), LR:

#### **Chapter 13. Financial Assurance for All Processors and Disposers of Solid Waste**

##### **[Formerly Chapter 7.Subchapter E]**

##### **§1301. Financial Responsibility During Operation**

##### **[Formerly §727.A.1]**

A. ...

1. Type I and II facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of \$1 million per occurrence and \$1 million annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services.

2. Type I-A and II-A facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of \$500,000 per occurrence, and \$500,000 annual aggregate, per site, exclusive of legal-

defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services.

3. Type III facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of \$250,000 per occurrence, and \$250,000 annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services.

B. – B.1.a.iii.(c). ...

(d). cancellation of the policy, whether by the insurer or the insured, shall be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the Office of Environmental Services;

(e). any other termination of the policy shall be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the Office of Environmental Services; and

1.a.iii.(f). – 2.c.vi. ...

d. The letter of credit must be irrevocable and issued for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and the administrative authority by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days shall begin on the date when both the permit holder and the Office of Environmental Services receive the notice, as evidenced by the return receipts.

e. ...

3. Financial Test

a. To meet this test, the applicant, the permit holder, or the parent corporation (corporate guarantor) of the applicant or permit holder must submit to the Office of Environmental Services the documents required by LAC 33:VII.1303 demonstrating that the requirements of that Section have been met. Use of the financial test may be disallowed on the basis of the accessibility of the assets of the permit holder, applicant, or parent corporation (corporate guarantor). If the applicant, permit holder, or parent corporation is using the financial test to demonstrate liability coverage and closure and post-closure care, only one letter from the chief financial officer is required.

3.b. – 4.a.iii. ...

iv. the guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial test criteria, the guarantor shall send within 90 days, by certified mail, notice to the Office of Environmental Services and to the permit holder or applicant that he intends to provide alternative financial assurance as specified in this Section, in the name of the permit holder or applicant, and that within 120 days after the end of said fiscal year the guarantor shall establish such financial assurance, unless the permit holder or applicant has done so;

v. the guarantor agrees to notify the Office of Environmental Services by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;

vi. – x. ...

b. A corporate guarantee may be used to satisfy the requirements of this Section only if the attorney general(s) or insurance commissioner(s) of the state in which the guarantor is incorporated, and the state in which the facility covered by the guarantee is located, has submitted a written statement to the Office of Environmental Services that a corporate guarantee is a legally valid and enforceable obligation in that state.

B.4.c. – D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2521 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1088 (June 2007), amended LR 33:

**§1303. Financial Responsibility for Closure and Post-Closure Care**  
**[Formerly §727.A.2]**

A. – A.1. ...

2. The applicant or permit holder shall submit to the Office of Environmental Services the estimated closure date and the estimated cost of closure and post-closure care in accordance with the following procedures.

a. – b. ...

c. The cost estimates must be adjusted within 30 days after each anniversary of the date on which the first cost estimate was prepared on the basis of either the inflation factor derived from the Annual Implicit Price Deflator for Gross Domestic Product, as published by the U.S. Department of Commerce in its *Survey of Current Business* or a reestimation of the closure and post-closure costs in accordance with Subparagraphs A.2.a and b of this Section. The permit holder or applicant must revise the cost estimate whenever a change in the closure/post-closure plans increases or decreases the cost of the closure/post-closure plans. The permit holder or applicant must submit a written notice of any such adjustment to the Office of Environmental Services within 15 days following such adjustment.

A.2.d. – B.4. ...

C. Trust Funds. A permit holder or applicant may satisfy the requirements of this Section by establishing a closure trust fund that conforms to the following requirements and submitting an originally signed duplicate of the trust agreement to the Office of Environmental Services.

1. – 7. ...

8. After beginning final closure, a permit holder, or any other person authorized by the permit holder to perform closure and/or post-closure, may request reimbursement for closure and/or post-closure expenditures by submitting itemized bills to the Office of Environmental Services. Within 60 days after receiving bills for such activities, the administrative authority will determine whether the closure and/or post-closure expenditures are in accordance with the closure plan or otherwise justified, and, if so, he or she shall instruct the trustee to make reimbursement in such amounts as the administrative authority specifies in writing. If the administrative authority has reason to believe that the cost of closure and/or post-closure will be significantly greater than the value of the trust fund, he may withhold reimbursement for such amounts as he deems prudent until he determines that the permit holder is no longer required to maintain financial assurance.



9. ...

D. Surety Bonds. A permit holder or applicant may satisfy the requirements of this Section by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Environmental Services.

1. – 5. ...

6. Whenever the current cost estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure estimate and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the administrative authority.

7. – 8. ...

E. Performance Bonds. A permit holder or applicant may satisfy the requirements of this Section by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Environmental Services.

1. – 5. ...

6. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Section. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate after written approval of the administrative authority.

7. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the Office of Environmental Services. Cancellation may not occur before 120 days have elapsed beginning on the date that both the permit holder and the administrative authority receive the notice of cancellation, as evidenced by the return receipts.

8. ...

F. Letter of Credit. A permit holder or applicant may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the following requirements and submitting the letter to the Office of Environmental Services.

1. – 3.f. ...

4. The letter of credit must be irrevocable and issued for a period of at least one year, unless, at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and the Office of Environmental Services by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permit holder and the administrative authority receive the notice, as evidenced by the return receipts.

5. ...

6. Whenever the current cost estimates increase to an amount greater than the amount of the credit, the permit holder, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least

equals the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure and post-closure cost estimates upon written approval of the administrative authority.

7. – 8. ...

G. Insurance. A permit holder or applicant may satisfy the requirements of this Section by obtaining insurance that conforms to the following requirements and submitting a certificate of such insurance to the Office of Environmental Services.

1. – 4. ...

5. After beginning final closure, a permit holder or any other person authorized by the permit holder to perform closure or post-closure may request reimbursement for closure or post-closure expenditures by submitting itemized bills to the Office of Environmental Services. Within 60 days after receiving such bills, the administrative authority will determine whether the expenditures are in accordance with the closure plan or otherwise justified, and if so, he or she shall instruct the insurer to make reimbursement in such amounts as the administrative authority specifies in writing.

6. – 7. ...

8. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the permit holder and the Office of Environmental Services. Cancellation, termination, or failure to renew may not occur, however, before 120 days have elapsed, beginning on the date that both the administrative authority and the permit holder receive notice of cancellation, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur, and the policy will remain in full force and effect in the event that, on or before the date of expiration:

a. – e. ...

9. Whenever the current cost estimate increases to an amount greater than the face amount of the policy, the permit holder, within 60 days after the increase, must either increase the face amount to at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current closure and post-closure cost estimates following written approval by the administrative authority.

G.10. – H.1.b.iii. ...

2. To demonstrate that he or she meets this test, the permit holder, applicant, or parent corporation of the permit holder or applicant must submit the following three items to the Office of Environmental Services:

2.a. – 3. ...

4. The permit holder, applicant, or parent corporation (if a corporate guarantor) of the permit holder or applicant

shall provide to the Office of Environmental Services a letter from the chief financial officer, the wording of which shall be identical to the wording in LAC 33:VII.1399.Appendix I, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted. The letter shall certify the following information:

4.a. – 6. ...

7. After initial submission of the items specified in Paragraph H.2 of this Section, the permit holder, applicant, or parent corporation of the permit holder or applicant must send updated information to the Office of Environmental Services within 90 days after the close of each succeeding fiscal year. This information must include all three items specified in Paragraph H.2 and the adjusted item specified in Subparagraph A.2.c of this Section.

8. – 9.d. ...

e. the guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial test criteria, the guarantor shall send within 90 days after the end of the fiscal year, by certified mail, notice to the Office of Environmental Services and to the permit holder or applicant that he intends to provide alternative financial assurance as specified in this Section, in the name of the permit holder or applicant, and that within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless the permit holder or applicant has done so;

f. the guarantor agrees to notify the Office of Environmental Services by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;

g. – h. ...

i. the guarantor agrees to remain bound under the guarantee for as long as the permit holder must comply with the applicable financial assurance requirements of this Section, except that the guarantor may cancel this guarantee by sending notice by certified mail to the Office of Environmental Services and the permit holder or applicant. The cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the permit holder or applicant, as evidenced by the return receipts;

H.9.j. – I.3.d.ii. ...

e. A local government must satisfy the requirements of the financial test at the close of each fiscal year. If the local government owner or operator no longer meets the requirements of the local government financial test, it must, within 210 days following the close of the owner or operator's fiscal year, obtain alternative financial assurance that meets the requirements of this Section, place the required submissions for that assurance in the operating record, and notify the Office of Environmental Services that the owner or operator no longer meets the criteria of the financial test and that alternate assurance has been obtained.

I.3.f. – J.1.a.ii. ...

b. the guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Office of Environmental Services. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the

administrative authority, as evidenced by the return receipts; and

c. if a guarantee is canceled, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the administrative authority, obtain alternate financial assurance, place evidence of that alternate financial assurance in the facility operating record, and notify the Office of Environmental Services. If the owner or operator fails to provide alternate financial assurance within the 90-day period, then the owner or operator must provide that alternate assurance within 120 days following the guarantor's notice of cancellation, place evidence of the alternate assurance in the facility operating record, and notify the Office of Environmental Services.

2. – 2.b.ii. ...

c. If a local government guarantor no longer meets the requirements of Subsection I of this Section, the owner or operator must, within 90 days, obtain alternate assurance, place evidence of the alternate assurance in the facility operating record, and notify the Office of Environmental Services. If the owner or operator fails to obtain alternate financial assurance within that 90-day period, the guarantor must provide that alternate assurance within the next 30 days.

K. – L. ...

1. the administrative authority determines that cost estimates are complete and accurate and the owner or operator has submitted a statement from a professional engineer to the Office of Environmental Services so stating;

2. – 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2522 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1090 (June 2007), amended LR 33:

### **§1305. Financial Responsibility for Corrective Action for Type II Landfills [Formerly §727.B]**

A. A permit holder of a Type II landfill required to undertake a corrective action program under LAC 33:VII.805 must provide to the Office of Environmental Services a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the program required under LAC 33:VII.805. The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period.

1. The permit holder must provide an annual adjustment of the estimate for inflation to the Office of Environmental Services until the corrective action program is completed in accordance with LAC 33:VII.805.

2. The permit holder must provide an increased corrective action cost estimate to the Office of Environmental Services and the amount of financial assurance provided under Subsection B of this Section if changes in the corrective action program or landfill conditions increase the maximum costs of corrective action.

3. Subject to approval of the administrative authority, the permit holder shall provide a reduced corrective action cost estimate to the Office of Environmental Services and the amount of financial assurance provided under Subsection B of this Section if the cost estimate exceeds the maximum

remaining costs of corrective action. The permit holder must provide the Office of Environmental Services justification for the reduction of the corrective action cost estimate and the revised amount of financial assurance.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2524 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1098 (June 2007), amended LR 33:

#### **Chapter 14. Statewide Beautification**

**[Formerly Chapter 13]**

##### **§1403. Definitions**

**[Formerly §1303]**

A. ...

\* \* \*

*Section—Repealed.*

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:2522 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2610 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2501 (October 2005), repromulgated LR 33:1107 (June 2007), amended LR 33:

##### **§1405. Louisiana Litter Abatement Program**

**[Formerly §1305]**

A. – B.2. ...

3. All requests for awards shall be made in writing, on a form provided by the department, to the Office of Environmental Services.

4. – 5. ...

6. Awards shall be awarded based on a comparative basis as determined by the Office of Environmental Services.

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:2524 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2610 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), repromulgated LR 33:1107 (June 2007), amended LR 33:

#### **Chapter 30. Appendices**

##### **§3001. Public Notice Example—Appendix A**

A. The following is an example of a public notice to be placed in the local newspaper for intention to submit a permit application to the Office of Environmental Services for existing/proposed solid waste facilities.

###### **PUBLIC NOTICE**

**OF**

###### **INTENT TO SUBMIT PERMIT APPLICATION**

**[NAME OF APPLICANT/FACILITY]**

**FACILITY [location], PARISH [location], LOUISIANA**

Notice is hereby given that [name of applicant] does intend to submit to the Department of Environmental Quality, Office of Environmental Services, [insert division name], an application for a permit to operate a [type of solid waste facility] in [parish name], Range\_\_, Township\_\_, Section\_\_, which is approximately [identify the physical location of the site by direction and distance from the nearest town].

Comments concerning the facility may be filed with the secretary of the Louisiana Department of Environmental Quality at the following address:

Louisiana Department of Environmental Quality

Office of Environmental Services

[insert division name]

Post Office Box 4313

Baton Rouge, Louisiana 70821-4313

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), LR 33:1109 (June 2007), LR 33:

#### **Subpart 2. Recycling**

##### **Chapter 103. Recycling and Waste Reduction Rules**

##### **§10307. Development of Local Plan**

A. – A.2.a. ...

b. an annual progress report must be submitted to the Office of Environmental Services no later than December 31 of each year after submittal and approval.

A.3. – C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:35 (January 1992), repromulgated LR 18:164 (February 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2537 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), LR 33:

##### **Chapter 105. Waste Tires**

##### **§10513. Permit Process for Existing Facilities Classified for Upgrade and for Proposed Facilities**

A. Applicant Public Notice

1. No sooner than 45 days prior to the submittal of a standard permit application to the Office of Environmental Services, the prospective applicant shall publish a notice of intent to submit an application for a waste tire standard permit. This notice shall be published one time as a single classified advertisement measuring three columns by 5 inches, in the legal or public notices section of the official journal of this state and a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by 5 inches, in the legal or public notices section of the official journal of the state will be the only public notice required.

2. – 3. ...

B. Submittal of Permit Applications

1. Any applicant for a standard permit for an existing or proposed facility shall complete a waste tire standard permit application, and submit four copies to the Office of Environmental Services. Each individual copy of the application shall be in standard three-ring-bound documents measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

B.2. – H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2775 (December 2000), LR 27:829 (June 2001), amended by the Office of Environmental Assessment, LR 30:2033 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), LR 33:

#### **§10515. Agreements with Waste Tire Processors**

Standard permitted waste tire processors may apply to the Office of Management and Finance for subsidized funding to assist them with waste tire processing and marketing costs. This application form is available from the Office of Management and Finance.

A. – F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2776 (December 2000), LR 27:830 (June 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), LR 33:

#### **§10517. Standard Waste Tire Permit Application**

Each applicant requesting a standard permit in accordance with these regulations shall complete the permit application, including, but not limited to, the information included in this Section and submit it to the Office of Environmental Services.

A. – C.3. ...

4. governmental agency collection centers may accept waste tires from roadside pickup, from rights-of-way, individual residents, and unauthorized waste tire piles. For the tires from unauthorized waste tire piles to be eligible for the \$1.50 per 20 pounds marketing payment to permitted processors as indicated in LAC 33:VII.10535, the governmental agency must notify the Office of Management and Finance, in writing, of the agency's intent prior to removing the tires from said site;

5. – 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2776 (December 2000), LR 27:830 (June 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), LR 33:

#### **§10519. Standards and Responsibilities of Generators of Waste Tires**

A. Within 30 days of commencement of business operations, generators of waste tires shall notify the Office of Environmental Services of their existence and obtain a generator identification number prior to initiating a waste tire manifest. Notification shall be on a form provided by the Office of Environmental Services.

B. – C. ...

D. Each dealer of passenger/light truck tires, medium truck tires, or off-road tires shall remit all waste tire fees collected as required by LAC 33:VII.10535.B and C to the

department on a monthly basis on or before the twentieth day following the month during which the fees were collected. The fees shall be remitted to the Office of Management and Finance. Each such dealer shall also submit a Monthly Waste Tire Fee Report (Form WT02, available from the Office of Management and Finance) to the Office of Management and Finance on or before the twentieth day of each month for the previous month's activity, including months in which no fees were collected. Each tire dealer required to make a report and remit the fee imposed by this Section shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each such dealer shall maintain a complete record of the quantity of tires sold, together with tire sales invoices, purchase invoices, inventory records, and copies of each Monthly Waste Tire Fee Report for a period of no less than three years. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

E. Tire dealers must provide notification to the public sector via signs made available by the Office of Management and Finance indicating that:

E.1. – K. ...

L. A generator who ceases the sale of tires at the registered location shall notify the Office of Management and Finance within 10 days of the date of the close or relocation of the business. This notice shall include information regarding the location and accessibility of the tire sale and monthly report records.

M. – P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:2227 (December 2001), LR 28:1953 (September 2002), LR 29:1818 (September 2003), LR 29:2780 (December 2003), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005), LR 33:90 (January 2007), LR 33:

#### **§10521. Standards and Responsibilities of Motor Vehicle Dealers**

A. All existing motor vehicle dealers shall notify the Office of Management and Finance of their existence and obtain an identification number. Notification shall be on a form provided by the Office of Management and Finance. Any new motor vehicle dealer shall notify the Office of Management and Finance within 30 days of commencement of business operations.

B. ...

C. Motor vehicle dealers shall remit all waste tire fees collected as required by LAC 33:VII.10535.B and C to the department on a monthly basis on or before the twentieth day following the month during which the fees were collected. The fees shall be remitted to the Office of Management and Finance. Each such dealer shall also submit a Monthly Waste Tire Fee Report (Form WT02, available from the Office of Management and Finance) to the Office of Management and Finance on or before the twentieth day of each month for the previous month's

activity, including months in which no fees were collected. Each motor vehicle dealer is required to make a report and remit the fee imposed by this Section and shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each such dealer shall maintain a complete record of the quantity of vehicles sold, together with vehicle purchase and sales invoices, and inventory records, for a period of no less than three years. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

D. Motor vehicle dealers must provide notification to the public via a sign made available by the Office of Management and Finance, indicating that:

"All Louisiana motor vehicle dealers selling new vehicles are required to collect a waste tire cleanup and recycling fee from the consumer of \$2 for each tire upon the sale of each vehicle that has passenger/light truck tires, \$5 for each tire upon the sale of each vehicle that has medium truck tires, and \$10 for each tire upon the sale of each off-road vehicle. These fees shall also be collected upon replacement of all recall and adjustment tires. No fee shall be collected on the designated spare tire."

E. ...

F. A motor vehicle dealer who ceases the sale of motor vehicles at the registered location shall notify the Office of Management and Finance, within 10 days of the date of the close or relocation of the business. This notice shall include information regarding the location and accessibility of the motor vehicle sales and monthly report records.

G. – H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1324 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:91 (January 2007), LR 33:

### **§10523. Standards and Responsibilities of Waste Tire Transporters**

A. Transporters of waste tires shall complete the application for transporter authorization form and submit the application, with the payment of the transporter fees as specified in LAC 33:VII.10535.A, to the Office of Management and Finance.

B. – F. ...

G. All persons subject to this Section shall notify the Office of Management and Finance in writing within 10 days when any information on the authorization certificate form changes, or if they close their business and cease transporting waste tires.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2778 (December 2000), LR 27:831 (June 2001), repromulgated LR 27:1885 (November 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005), LR 33:

### **§10525. Standards and Responsibilities of Waste Tire Processors**

A. – A.2.g. ...

B. On a form obtained from the Office of Management and Finance, all processors shall submit to the Office of Management and Finance a monthly report which shall include a certified record of pounds of tires processed during the month, along with all completed manifests for the month and the log recording all unmanifested waste tires deposited at the facility. The monthly report shall also include a certified record of the pounds of waste tire material that have been marketed and delivered as a product or raw material for beneficial reuse. An alternative method of reporting sale of waste tire material shall be developed and approved for each processor that uses a process other than shredding. The alternative method shall be approved by the administrative authority.

C. – D.13. ...

a. the waste tire facility operator shall submit to the Office of Management and Finance an estimate of the maximum total amount by weight of waste tire material that will be stored at the processing facility at any one time;

b. the waste tire facility operator shall also submit to the Office of Management and Finance two independent, third-party estimates of the total cost of cleaning up and closing the facility, including the cost of loading the waste tire material, transportation to a permitted disposal site, and the disposal cost; and

D.13.c. – E.6. ...

7. Mobile processors are responsible for notifying the Office of Environmental Services in writing within 10 days when any information on the notification changes or if they cease processing waste tires with a mobile unit.

F. Governmental agencies may operate tire splitting equipment for the purposes of volume reduction prior to disposal without a permit to process waste tires, provided they meet the requirements outlined in LAC 33:VII.10517.C and request authorization from the Office of Management and Finance before initiating any processing.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2779 (December 2000), LR 27:831 (June 2001), LR 27:2228 (December 2001), LR 28:1953 (September 2002), LR 29:2780 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005), LR 33:

### **§10531. Standards and Responsibilities of Qualified Recyclers**

A. Within 30 days of promulgation of these rules and regulations, recyclers shall notify the Office of Environmental Services of their existence and obtain an identification number. Notification shall be on a form provided by the Office of Environmental Services including, but not limited to:

A.1. – C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning

Division, LR 26:2780 (December 2000), LR 27:831 (June 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005), LR 33:

### **§10533. Manifest System**

A. – B.2. ...

3. the designated processing facility operator completes Section 3 of the manifest and retains a copy for his files. The designated processing facility operator shall submit the original manifest to the Office of Management and Finance with the monthly processor report. The designated processing facility shall send all remaining copies to the generator no later than seven days after delivery;

4. ...

5. a generator must submit to the Office of Management and Finance written notification, if he has not received a copy of the manifest with the handwritten signature of the designated destination facility operator within 45 days of the date the shipment was accepted by the transporter. The notification shall include:

a. – b. ...

C. Upon discovering a discrepancy in the number or type of tires in the load, the designated destination facility must attempt to reconcile the discrepancy with the generator(s) or transporter(s). The destination facility operator must submit to the Office of Management and Finance, within five working days, a letter describing the discrepancy and attempts to reconcile it and a copy of the manifest(s). After the discrepancy is resolved a corrected copy is to be sent to the Office of Management and Finance.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 27:831 (June 2001), LR 27:2228 (December 2001), LR 29:2780 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:91 (January 2007), LR 33:

### **§10535. Fees and Fund Disbursement**

A. Permit and Application Fees. Each applicant shall submit to the Office of Environmental Services a non-refundable application fee in the amount specified, according to the categories listed below. The appropriate fee must accompany the permit application or authorization application form.

A.1. – C. ...

1. The entire waste tire fee shall be forwarded to the Office of Management and Finance by the tire dealer and shall be deposited in the Waste Tire Management Fund.

C.2. – D.6. ...

7. Payments shall be made to the processor on a monthly basis, after properly completed monthly reports are submitted by the processor to the Office of Management and Finance. Reporting forms will be provided by the Office of Management and Finance.

8. – 10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), amended by the Office of

Environmental Assessment, Environmental Planning Division, LR 26:2781 (December 2000), LR 27:832 (June 2001), LR 27:2228 (December 2001), amended by the Office of Environmental Assessment, LR 31:1324 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:

### **§10536. Remediation of Unauthorized Tire Piles**

A. ...

B. In order to apply for and receive funding for unauthorized waste tire site remediation, local governments must provide the Office of Management and Finance with unauthorized waste tire site information. This information includes, but is not limited to, accurate site location, number of tires on site, visual report on site with photographs and proximity to residences, schools, hospitals and/or nursing homes, and major highways. Such information shall be submitted using forms available from the Office of Management and Finance.

C. ...

D. State agencies, parish, or local governments may consolidate several smaller waste tire piles provided they obtain prior approval from the Office of Management and Finance. Consolidating the piles for the purpose of remediation may increase the priority ranking of the site in question.

E. Waste tires may not be removed from unauthorized waste tire piles without prior approval of the Office of Management and Finance.

F. – G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2782 (December 2000), LR 27:832 (June 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:

## **Part IX. Water Quality**

### **Subpart 1. Water Pollution Control**

#### **Chapter 3. Permits**

##### **Subchapter A. General Requirements**

#### **§301. Scope**

A. – E.7. ...

F. Any unpermitted facility or activity that exists or is under construction on the effective date of these regulations and falls under the jurisdiction of Subsection B of this Section shall submit a completed application to the Office of Environmental Services within 180 days of the effective date. Upon receipt of the application by the department within the prescribed 180 days, the facility shall be deemed in compliance with Subsection B of this Section except where the administrative authority has initiated action against the facility following an investigation or complaint. All facilities or activities that meet the requirements outlined in Paragraph J.4 or K.4 of this Section shall be exempt from the requirements of this Subsection.

G. – J.3.b.ii ...

4. A permit application shall not be required from a concentrated animal feeding operation until the department has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the permit program. However, all concentrated animal

feeding operations that meet the criteria in LAC 33:IX.321.Appendix B shall so notify the Office of Environmental Services within 180 days of the effective date of these regulations.

K. – K.3.a.iv. ...

4. A permit application shall not be required from a concentrated aquatic animal production facility until the department has conducted an on-site inspection of the facility and has determined that the facility should and could be regulated under the permit program. However, all concentrated aquatic animal production facilities that meet the criteria in LAC 33:IX.321.Appendix C shall so notify the Office of Environmental Services within 180 days of the effective date of these regulations.

L. – N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2273 (October 2000), LR 26:2538 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:

### **§303. Permit Application Information**

A. – D. ...

E. All applicants for a LWDPS permit shall provide the following information to the Office of Environmental Services using the application form provided by the department, unless the department determines that such information is not required for applicant's facility or activity:

E.1. – G.2.c. ...

3. Exception. In cases where the application is withdrawn by the applicant, a written notification must be provided to the Office of Environmental Services stating that no discharge or other activity that would require a permit under these regulations is currently taking place. Provided that the application was not made in response to previous enforcement action, the applicant is then exempt from enforcement action for causes listed under Paragraph G.2 of this Section.

H. – H.2.b. ...

c. the written authorization is submitted to the Office of Environmental Services.

3. If an authorization under this Subsection is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Paragraph H.2 of this Section shall be submitted to the Office of Environmental Services prior to or together with any reports, information, or applications to be signed by an authorized representative.

4. – Certification. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2539 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2505 (October 2005), LR 33:

### **§307. Modification, Revocation and Reissuance**

A. Any permittee shall report to the Office of Environmental Services any facility changes that result in increases in the quantity of pollutants discharged or decreases in the quality of the discharges. The permittee shall also report any facility changes that result in decreases in the quantity of pollutants discharged or increases in the quality of discharges of pollutants where such change is expected to last in excess of 180 days. Such report shall be by submission of a modified permit application or, if the discharge does not violate the effluent limitations specified in the permit, by submission of notice to the Office of Environmental Services of the nature of such facility changes. The permittee shall not commence any facility expansion, production increases, or process modifications that result in new or increased discharges of pollutants without receiving a modified LWDPS permit or written authorization from the Office of Environmental Services. The provisions of this Subsection shall not apply to facility changes that were considered during the permitting process.

B. When the Office of Environmental Services receives any new information or receives a request for modification or revocation, such permit may, after an opportunity for hearing, be modified, or alternatively revoked and reissued, in whole or in part, for cause, including but not limited to:

B.1. – D.3. ...

4. allow for a change in ownership or operational control of a facility where the Office of Environmental Services determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the department (see LAC 33:IX.307.B.8 and 311.D);

D.5. – F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2540 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2505 (October 2005), LR 33:

### **§309. Renewal and Termination**

A. At least 180 days prior to the expiration date of a LWDPS permit issued pursuant to state law and this regulation, a permittee who wishes to continue to operate under such permit shall submit an application for renewal to the Office of Environmental Services.

B. – H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2541 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2505 (October 2005), LR 33:

### **§311. Standard Permit Conditions**

In addition to the following standard conditions required in all permits, the department shall establish additional

requirements as deemed necessary on a case-by-case basis, to provide for and ensure compliance with all applicable requirements of the act, these regulations, and constitutional and statutory mandates.

A. – I.4. ...

J. Monitoring, Recordkeeping, and Reporting

1. All sampling and analyses shall be performed in accordance with the analytical test procedures approved by the Office of Environmental Services. Where no approved sampling or test procedure is available, the permittee must:

1.a. – 13. ...

14. The permittee shall report any noncompliance as required by R.S. 30:2025(J), R.S. 30:2076(D), or departmental regulations promulgated under these statutes. In addition, all maximum limitation excursions shall be reported in writing to the Office of Environmental Compliance within five days of the time the permittee becomes aware of the excursions.

J.15. – K.1.c. ...

i. if the permittee knows in advance of the need for a bypass, it shall submit to the Office of Environmental Services prior written notice, at least 10 days before the date of the bypass if possible;

ii. if the permittee does not know in advance of the need for a bypass, notice shall be submitted to the Office of Environmental Services within 24 hours after the initiation of the bypass unless an earlier notice is required in R.S. 30:2025(J).

2. – 3. ...

4. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if the bypass is required for essential maintenance to ensure efficient operation. Any bypass that meets the requirements of this Paragraph and is expected to or does continue for longer than seven days shall be reported in writing to the Office of Environmental Services within 10 working days of initiation of the bypass. These bypasses are not subject to the provisions of Paragraphs K.1 and 2 of this Section.

L. – L.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2541 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2505 (October 2005), LR 33:

### **§315. Public Information**

A. – B. ...

C. The department shall send the public notice to the applicant who shall be responsible for publication of the notice once in the official state journal and once in any other local newspapers specified by the department. Upon publication, the applicant shall send the Office of Environmental Services a copy of the certificate of publication. The costs of publication shall be borne by the applicant.

D. – F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Environmental

Assessment, Environmental Planning Division, LR 26:2542 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2506 (October 2005), LR 33:

### **Chapter 7. Effluent Standards**

#### **§708. Exploration for and Production of Oil and Natural Gas**

A. – C.1.b.iii. ...

iv. In the event of an unauthorized discharge of oil, produced water, or any other product or waste material, a remedial response must be immediately initiated and the Office of Environmental Compliance shall be notified in accordance with LAC 33:1.3901 et seq. The remedial response shall include immediate removal of discharged materials and, to the extent practicable, decontamination of any water, soil, sediment, or vegetation adversely impacted by the unauthorized discharge. If immediate cleanup is not considered to be an appropriate remedial measure, the responsible party shall notify the Office of Environmental Compliance of the alternative remedial plan and shall promptly implement said plan upon approval by the department. Submission of an alternate plan shall in no way relieve the responsible party of its duty to contain and mitigate the effects of the discharge.

1.b.v. – 3.d. ...

e. The discharge of drill cuttings or bulk drilling fluids (if allowed) must not occur within 1,300 feet (via water) of an active oyster lease, live natural oyster or other molluscan reef, designated oyster seed bed, or sea grass bed. No discharge shall be made in such a manner as to allow deposition of drill cuttings or drilling fluids in or upon any active oyster lease, live natural reef, or seed bed. If the discharge is to take place within one mile of an area containing oyster leases, a lease map must be forwarded to the Office of Environmental Services showing the location of the discharge and surrounding leases. If the applicant considers any oyster lease, live natural oyster or other molluscan reef, or designated seed bed within 1,300 feet of a discharge of drilling fluids or drill cuttings to be inactive, written documentation and evidence must be submitted to the Office of Environmental Services for a determination to be made as to the acceptability of such a discharge.

3.f. – 5.b.ii. ...

c. Each discharge will require specific prior approval from a representative of the Office of Environmental Services. An analysis of the treated water shall be submitted to and approved by a representative of the Office of Environmental Services prior to discharge.

i. – iii. ...

d. Dilution shall not be used to comply with any of the discharge limitations unless specific written authorization from the Office of Environmental Services has been obtained. The only parameter for which dilution will be considered is chloride. Formal written requests for approval to allow dilution of chloride levels should be addressed to the Office of Environmental Services. Consideration of written requests to allow dilution of chloride levels in drilling site reserve pits, ring levee borrow ditches, shale barges, drilling fluid dewatering systems, and abandoned or inactive oil field production pits will be made on a case-by-case basis and only if the following conditions can be met.

i. – iv. ...

v. The Office of Environmental Services representative concludes that no adverse environmental



effects will result from the discharge of pretreated and diluted wastewater.

e. An on-site inspection by the Office of Environmental Services personnel may be required prior to discharge approval.

f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:261 (April 1989), amended LR 17:263 (March 1991), LR 23:860 (July 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2544 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2506 (October 2005), LR 33:

## **Chapter 9. Spill Prevention and Control**

### **§905. Requirements for Preparation and Implementation of Plans**

A. Operators of facilities in operation or under construction on or before the effective date of these regulations that meet the criteria outlined in LAC 33:IX.903 shall prepare a plan within 180 days of the effective date of these regulations. The plan shall be fully implemented as soon as possible after preparation, but not later than one year after it was prepared. The Office of Environmental Services may, upon written request, grant additional implementation time to existing facilities in those cases where substantial upgrading or modification may be required in order to comply with this Chapter.

B. – F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2545 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2507 (October 2005), LR 33:

## **Chapter 11. Surface Water Quality Standards**

### **§1117. References**

A. – A.1. ...

2. Louisiana Department of Environmental Quality. (continuous). Fixed Station Long-Term Ambient Surface Water Quality Network. Baton Rouge: Office of Environmental Compliance.

3. – 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2403 (December 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2507 (October 2005), LR 33:

### **§1121. Regulation of Toxic Substances Based on the General Criteria**

A. – A.2. ...

B. Effluent Characterization/Toxicity Testing and/or Instream Assessment

1. When determining the need for limits based on water quality, the Office of Environmental Services may identify data needs and request that the permittee submit additional data along with the application. Permits may be placed into three categories:

1.a. – 3.b.iii.(c). ...

4. For water bodies whose designated use is as a drinking water supply, the department will calculate the in-stream concentration for all discharged pollutants for which EPA has promulgated a maximum contaminant level (MCL). The permittee will be required to submit to the Office of Environmental Services sufficient effluent characterization data to make these calculations. Where dilution calculations indicate that in-stream concentrations may exceed the MCL requirements at appropriate flow conditions, the permittee may be required to conduct in-stream chemical monitoring or monitoring at the water supply.

5. To protect human health by eliminating chronic exposure to potentially toxic amounts of pollutants from aquatic species consumed by humans, the department will calculate the in-stream concentrations of all applicable pollutants for which EPA has published human health criteria in the Quality Criteria for Water, 1986, EPA 440/5-86-001, or subsequent revisions. The permittee will be required to submit to the Office of Environmental Services sufficient effluent characterization data to make these calculations. For operational considerations, if dilution calculations show that after mixing, a suspected carcinogen would be present in the receiving water body at a concentration associated with a  $10^{-6}$  risk level, in-stream chemical monitoring may be required of the appropriate dischargers. The department will list the water body as a priority water body and develop a wasteload allocation or make other consideration for it.

C. – E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2404 (December 1999), LR 26:2548 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2507 (October 2005), LR 33:832 (May 2007), LR 33:

## **Chapter 15. Water Quality Certification Procedures**

### **§1507. Procedures for Issuance of Water Quality Certification**

A. – A.2.a, Table. ...

b. Payment shall accompany the application for certification. The department shall consider the application incomplete and initiation of the application review process will not begin until payment of the processing fee is received. Payment shall be by check or money order to Department of Environmental Quality, Office of Environmental Services, and shall be nonrefundable.

3. ...

4. Approved Land Management Plan Requirement. Applicants whose applications involve the clearing of land for agricultural purposes shall submit to the Office of Environmental Services an approved land management plan for the land to be cleared before the application will be deemed adequate.

5. – 8. ...

B. Alternative Application Submittal. Any applicant may elect to submit to the Office of Environmental Services a duplicate of the proposed federal permit application in lieu of a separate application for state certification. Such

submittal must include a cover letter requesting state certification and indicating that the attached copy of a federal permit application is to serve as the application for state certification.

C. – H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:496 (July 1984), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), LR 29:690 (May 2003), LR 29:2052 (October 2003), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2507 (October 2005), LR 33:

## **Chapter 21. Municipal Facilities Revolving Loan Fund**

### **§2109. Priority System**

A. ...

B. Determination of Priority for Participation in the Program. Any municipality that has the authority under applicable law to undertake a wastewater facility project and desires to apply for a loan may submit a completed Pre-Application Form (RF-100) to the Office of Environmental Services. Such projects shall be included on the next fiscal year's state project priority list in accordance with the priority system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005), LR 33:

### **§2111. Application for Loan**

A. – E.4. ...

F. Plans and Specifications. The applicant shall submit plans and specifications to the Office of Environmental Services for review to ensure the proposed project meets minimum technical and administrative requirements of federal and state law, is biddable and constructable and will satisfy discharge requirements in accordance with the project's National Pollution Discharge Elimination System (NPDES) and/or State Pollutant Discharge Elimination System permit.

G. – H. ...

I. Financial and Management Capability. The applicant is required to submit to the Office of Environmental Services sufficient information to demonstrate its legal, institutional, managerial, and financial capability to ensure the adequate building, operation, maintenance of the facility, and debt repayment of the loan.

J. – M.6. ...

N. Sludge Management Plan. The applicant shall submit a plan to the Office of Environmental Services that complies with the Department of Environmental Quality rules and regulations.

O. – P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742

(December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005), LR 33:

### **§2115. Construction of Wastewater Facility Project**

A. – B.2.c. ...

d. submit to the Office of Environmental Services all change orders for review and approval.

C. Bid Proposals. The applicant shall submit to the Office of Environmental Services for review a complete statement of work to be performed, the terms and conditions of the proposed contract to be awarded, a clear explanation of the methods of bidding and of evaluating bid prices and the limits of work for each item on the proposal form.

D. – E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2551 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005), LR 33:

### **§2119. Miscellaneous**

A. Annual Audit. The Office of Management and Finance shall conduct, or have conducted, an annual audit of the fiscal operation of the revolving loan fund for submission to the governor and the legislature.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2551 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005), LR 33:

### **§2123. Appendix 2—Construction Grants Priority System**

A. – D.2.i. ...

3. It is the responsibility of each authorized project representative to maintain current and accurate information for his/her project, and to submit any revised or updated project information to the Office of Environmental Services each year for use in preparing the project priority list. Only project information received by April 1 will be considered for inclusion on the next fiscal year's project priority list.

4. – 19. ...

20. Those projects that have already received federal assistance for Step 1 or Step 2 work must complete and submit the required grant documents to the Office of Environmental Services within the time period allotted. Failure to submit the required documents or a request for a time extension by the scheduled project completion date may result in the removal of the project from the fundable portion of the project priority list.

D.21. – F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 17:342 (December 1987), amended by the Office of Environmental

Assessment, Environmental Planning Division, LR 26:2551 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005), LR 33:

**§2125. Appendix 3—State Environmental Review Process**

A. General. As required by the provisions of Section 602(b)(6) of the 1987 Amendments to the Clean Water Act, the department shall conduct an interdisciplinary environmental review consistent with the National Environmental Policy Act of the project proposed for funding through the municipal facilities revolving loan fund. This review will ensure that the project will comply with the applicable local, state, and federal laws and department rules relating to the protection and enhancement of the environment. Based upon the staff's review, the secretary, or his duly authorized representative, will make formal determinations regarding the potential social and environmental impacts of the proposed project. As necessary, the determination will include mitigative provisions as a condition of financial assistance for building and no financial assistance will be provided until a final environmental determination has been made. Nothing in these rules shall prohibit any public, private or governmental party from seeking administrative or legal relief from the determinations of the department. Potential applicants to the municipal facilities revolving loan fund should obtain guidance from the staff regarding the scope of the environmental review to be conducted by the department and the environmental information that the applicant will be required to submit to the Office of Environmental Services in support of the proposed project.

A.1. – C.5. ...

**GUIDELINES FOR LOUISIANA REVOLVING LOANS FUND ENVIRONMENTAL REVIEW PROCESS**

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[See Prior Text in Document]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2551 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2509 (October 2005), LR 33:

**Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program  
Chapter 25. Permit Application and Special LPDES Program Requirements**

**§2501. Application for a Permit**

A. Duty to Apply

1. Any person who discharges or proposes to discharge pollutants or who owns or operates a sludge-only facility whose sewage sludge use or disposal practice is regulated by 40 CFR Part 503, and who does not have an effective permit, except persons covered by general permits under LAC 33:IX.2515, or discharges excluded under LAC 33:IX.2315, or a user of a privately owned treatment works unless the state administrative authority requires otherwise under LAC 33:IX.2707.M, must submit a complete application to the Office of Environmental Services in accordance with this Section and LAC 33:IX.Chapters 31-35. All concentrated animal feeding operations have a duty

to seek coverage under an LPDES permit as described in LAC 33:IX.2505.D.

2. Application Forms

a. All applicants for LPDES permits must submit applications on either state- or EPA-approved permit application forms. More than one application form may be required from a facility depending on the number and types of discharges or outfalls found there. Application forms may be obtained by contacting the Office of Environmental Services or may be obtained electronically through the department's website.

A.2.b. – C.1.b. ...

c. Any other TWTDS not addressed under Subparagraph C.1.a or b of this Section must submit the information listed in Clauses C.1.c.i-v of this Section, to the Office of Environmental Services within one year after publication of a standard applicable to its sewage sludge use or disposal practice(s), using Form 2S or another form provided by the department. The Office of Environmental Services will determine when such TWTDS must submit a full permit application. The following information must be submitted:

c.i. – d. ...

e. Any owner or operator of a TWTDS that commences operations after promulgation of an applicable standard for sewage sludge use or disposal shall submit an application to the Office of Environmental Services at least 180 days prior to the date proposed for commencing operations.

D. – E.2. ...

F. Information Requirements. All applicants for LPDES permits, other than permits for POTWs and other TWTDS, must provide the following information to the Office of Environmental Services using the application form provided by the state administrative authority (additional information required of applicants is set forth in Subsections G-K of this Section and LAC 33:I.1701):

1. – 9. ...

G. Application Requirements for Existing Manufacturing, Commercial, Mining, and Silvicultural Dischargers. Existing manufacturing, commercial, mining, and silvicultural dischargers applying for LPDES permits, except for those facilities subject to the requirements of Subsection H of this Section, shall provide the following information to the Office of Environmental Services using application forms provided by the state administrative authority:

1. – 13. ...

H. Application Requirements for Manufacturing, Commercial, Mining and Silvicultural Facilities That Discharge Only Nonprocess Wastewater. Except for stormwater discharges, all manufacturing, commercial, mining and silvicultural dischargers applying for LPDES permits that discharge only nonprocess wastewater not regulated by an effluent limitations guideline or new source performance standard shall provide the following information to the Office of Environmental Services using application forms provided by the state administrative authority.

H.1. – I.2.e. ...

J. Application Requirements for New and Existing POTWs. Unless otherwise indicated, all owners/operators of

POTWs and other dischargers designated by the state administrative authority must provide, at a minimum, the information in this Subsection to the Office of Environmental Services. Permit applicants must submit all information available at the time of permit application. The information may be provided by referencing information previously submitted to the state administrative authority. The state administrative authority may waive any requirement of this Subsection if he or she has access to substantially identical information. The state administrative authority may also waive any requirement of this Subsection that is not of material concern for a specific permit, if approved by the regional administrator. The waiver request to the regional administrator must include the state's justification for the waiver. A regional administrator's disapproval of a state's proposed waiver does not constitute final agency action, but does provide notice to the state and permit applicant(s) that EPA may object to any state-issued permit issued in the absence of the required information.

1. – 3.c.ii. ...

4. Effluent Monitoring for Specific Parameters

a. As provided in Subparagraphs J.4.b-j of this Section, all applicants must submit to the Office of Environmental Services effluent monitoring information for samples taken from each outfall through which effluent is discharged to waters of the state. The state administrative authority may allow applicants to submit sampling data for only one outfall on a case-by-case basis, where the applicant has two or more outfalls with substantially identical effluent. The state administrative authority may also allow applicants to composite samples from one or more outfalls that discharge into the same mixing zone.

4.b. – 5.a. ...

b. As provided in Subparagraphs J.5.c-i of this Section, applicants for the following facilities must submit to the Office of Environmental Services the results of valid whole effluent toxicity tests for acute or chronic toxicity for samples taken from each outfall through which effluent is discharged to surface waters:

J.5.b.i. – R.5.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2552 (November 2000), LR 26:2756 (December 2000), LR 27:45 (January 2001), LR 28:465 (March 2002), LR 28:1766 (August 2002), LR 29:1462 (August 2003), repromulgated LR 30:229 (February 2004), amended by the Office of Environmental Assessment, LR 30:2028 (September 2004), LR 31:425 (February 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2509 (October 2005), LR 32:819 (May 2006), LR 33:

**§2511. Storm Water Discharges**

A. – A.9.b. ...

c. Operators of storm water discharges designated in accordance with Clauses A.9.a.iii and iv of this Section shall apply to the Office of Environmental Services for a permit within 180 days of receipt of notice, unless permission for a later date is granted by the department.

B. – C.1.e. ...

2. Group Application for Discharges Associated with Industrial Activity. In lieu of individual applications or notice of intent to be covered by a general permit for storm water discharges associated with industrial activity, a group application may be filed by an entity representing a group of applicants (except facilities that have existing individual LPDES permits for storm water) that are part of the same subcategory (see 40 CFR Subchapter N, Part 405 to 471) or, where such grouping is inapplicable, are sufficiently similar as to be appropriate for general permit coverage under LAC 33:IX.2515. The Part 1 application shall be submitted to the Office of Environmental Services for approval. Once a Part 1 application is approved, group applicants are to submit Part 2 of the group application to the Office of Environmental Services. A group application shall consist of:

a. – b. ...

D. Application Requirements for Large and Medium Municipal Separate Storm Sewer Discharges. The operator of a discharge from a large or medium municipal separate storm sewer or a municipal separate storm sewer that is designated by the state administrative authority under Subparagraph A.1.e of this Section may submit a jurisdiction-wide or system-wide permit application to the Office of Environmental Services. Where more than one public entity owns or operates a municipal separate storm sewer within a geographic area (including adjacent or interconnected municipal separate storm sewer systems), such operators may be a co-applicant to the same application. Permit applications for discharges from large and medium municipal storm sewers or municipal storm sewers designated under Subparagraph A.1.e of this Section shall include:

D.1. – G.4.d, Certification. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:957 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2273 (October 2000), LR 26:2552 (November 2000), repromulgated LR 27:40 (January 2001), amended LR 28:467 (March 2002), LR 29:701 (May 2003), repromulgated LR 30:230 (February 2004), amended by the Office of Environmental Assessment, LR 31:1321 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2510 (October 2005), LR 32:1603 (September 2006), LR 33:

**§2515. General Permits**

A. – B.1. ...

2. Authorization to Discharge, or Authorization to Engage in Sludge Use and Disposal Practices

a. Except as provided in Subparagraphs B.2.e and f of this Section, dischargers (or treatment works treating domestic sewage) seeking coverage under a general permit shall submit to the Office of Environmental Services a written notice of intent to be covered by the general permit. A discharger (or treatment works treating domestic sewage) who fails to submit a notice of intent in accordance with the terms of the permit is not authorized to discharge, (or in the case of sludge disposal permit, to engage in a sludge use or disposal practice), under the terms of the general permit unless the general permit, in accordance with Subparagraph

B.2.e of this Section, contains a provision that a notice of intent is not required or the state administrative authority notifies a discharger (or treatment works treating domestic sewage) that it is covered by a general permit in accordance with Subparagraph B.2.f of this Section. A complete and timely notice of intent (NOI), to be covered in accordance with general permit requirements, fulfills the requirements for permit applications for purposes of LAC 33:IX.2321, 2501, and 2511.

B.2.b. – C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2276 (October 2000), LR 26:2553 (November 2000), LR 28:468 (March 2002), LR 29:1466 (August 2003), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2511 (October 2005), LR 33:

**§2521. If I am an operator of a regulated small MS4, how do I apply for an LPDES permit and when do I have to apply?**

A. If you operate a regulated small MS4 under LAC 33:IX.2519, you must seek coverage under an LPDES permit issued by the Department of Environmental Quality, Office of Environmental Services.

B. ...

1. If the Office of Environmental Services has issued a general permit applicable to your discharge and you are seeking coverage under the general permit, you must submit a Notice of Intent (NOI) that includes the information on your best management practices and measurable goals required by LAC 33:IX.2523.D. You may file your own NOI or you and other municipalities or governmental entities may jointly submit a NOI. If you want to share responsibilities for meeting the minimum measures with other municipalities or governmental entities, you must submit a NOI that describes which minimum measures you will implement and identify the entities that will implement the other minimum measures within the area served by your MS4. The general permit will explain any other steps necessary to obtain permit authorization;

2.a. If you are seeking authorization to discharge under an individual permit and wish to implement a program under LAC 33:IX.2523, you must submit an application to the Department of Environmental Quality, Office of Environmental Services, that includes the information required under LAC 33:IX.2501.F and 2523.D, an estimate of square mileage served by your small MS4, and any additional information that the Office of Environmental Services requests. A storm sewer map that satisfies the requirement of LAC 33:IX.2523.B.3.a will satisfy the map requirement in LAC 33:IX.2501.F.7;

b. ...

c. If approved by the Office of Environmental Services, you and another regulated entity may jointly apply under either Subparagraph B.2.a or b of this Section to be co-permittees under an individual permit;

B.3. – C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment,

Environmental Planning Division, LR 26:2278 (October 2000), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2511 (October 2005), LR 33:

**§2523. As an operator of a regulated small MS4, what will my LPDES MS4 storm water permit require?**

A. – C. ...

D.1. In your permit application (either a notice of intent for coverage under a general permit or an individual permit application) you must identify and submit to the Office of Environmental Services the following information:

a. – c. ...

2. If you obtain coverage under a general permit, you are not required to meet any measurable goal(s) identified in your notice of intent in order to demonstrate compliance with the minimum control measures in Paragraphs B.3-6 of this Section unless, prior to submitting your NOI, the Office of Environmental Services has provided or issued a menu of BMPs that addresses each such minimum measure. Even if that office does not issue the menu of BMPs, however, you still must comply with other requirements of the general permit, including good faith implementation of BMPs designed to comply with the minimum measures.

D.3. – G.3.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2278 (October 2000), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2511 (October 2005), LR 33:

**§2525. As an operator of a regulated small MS4, may I share the responsibility to implement the minimum control measures with other entities?**

A. – A.3. ...

B. In some cases the Office of Environmental Services may recognize, either in your individual LPDES permit or in an LPDES general permit, that another governmental entity is responsible under an LPDES permit for implementing one or more of the minimum control measures for your small MS4 or that the department itself is responsible. Where the Office of Environmental Services does so, you are not required to include such minimum control measure(s) in your storm water management program (e.g., if a state or tribe is subject to an LPDES permit that requires it to administer a program to control construction site runoff at the state or tribal level and that program satisfies all of the requirements of LAC 33:IX.2523.B.4, you could avoid responsibility for the construction measure, but would be responsible for the remaining minimum control measures). Your permit may be reopened and modified to include the requirement to implement a minimum control measure if the entity fails to implement it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2512 (October 2005), LR 33:

**§2529. Will the small MS4 storm water program regulations at LAC 33:IX.2519-2527 change in the future?**

A. EPA will evaluate the small MS4 regulations at LAC 33:IX.2519-2527 after December 10, 2012, and recommend any necessary revisions. Required revisions will then be incorporated into the LPDES program by the Office of Environmental Services. (EPA intends to conduct an enhanced research effort and compile a comprehensive evaluation of the NPDES MS4 storm water program. EPA will re-evaluate the regulations based on data from the NPDES MS4 storm water program, from research on receiving water impacts from storm water, and the effectiveness of BMPs, as well as other relevant information sources.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2512 (October 2005), LR 33:

**Chapter 27. LPDES Permit Conditions**

**§2701. Conditions Applicable to All Permits**

The following conditions apply to all LPDES permits. Additional conditions applicable to LPDES permits are in LAC 33:IX.2703. All conditions applicable to LPDES permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations (or the corresponding approved state regulations) must be given in the permit.

A. – M.2. ...

3. Notice

a. Anticipated Bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Office of Environmental Services, if possible at least 10 days before the date of the bypass.

M.3.b. – N.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:724 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2553 (November 2000), LR 28:468 (March 2002), repromulgated LR 30:230 (February 2004), amended LR 30:1676 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2431, 2512 (October 2005), LR 32:1220 (July 2006), LR 33:

**§2703. Additional Conditions Applicable to Specified Categories of LPDES Permits**

The following conditions, in addition to those set forth in LAC 33:IX.2701, apply to all LPDES permits within the categories specified below.

A. Existing Manufacturing, Commercial, Mining, and Silvicultural Dischargers. In addition to the reporting requirements under LAC 33:IX.2701.L, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Office of Environmental Services as soon as they know or have reason to believe:

A.1. – B.3.b. ...

C. Municipal Separate Storm Sewer Systems. The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the state administrative authority under LAC 33:IX.2511.A.1.e must submit an annual report to the Office of Environmental Services by the anniversary of the date of the issuance of the permit for such system. The report shall include:

C.1. – E.4.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), LR 29:1466 (August 2003), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2512 (October 2005), LR 32:819 (May 2006), LR 33:

**§2709. Calculating LPDES Permit Conditions**

A. – B.2.b.ii. ...

(a). the permit shall require the permittee to notify the Office of Environmental Services at least two business days prior to a month in which the permittee expects to operate at a level higher than the lowest production level identified in the permit. The notice shall specify the anticipated level and the period during which the permittee expects to operate at the alternate level. If the notice covers more than one month, the notice shall specify the reasons for the anticipated production level increase. New notice of discharge at alternate levels is required to cover a period or production level not covered by prior notice or, if during two consecutive months otherwise covered by a notice, the production level at the permitted facility does not in fact meet the higher level designated in the notice;

(b). the permittee shall comply with the limitations, standards, or prohibitions that correspond to the lowest level of production specified in the permit, unless the permittee has notified the Office of Environmental Services under Subclause B.2.b.ii.(a) of this Section, in which case the permittee shall comply with the lower of the actual level of production during each month or the level specified in the notice;

(c). the permittee shall submit to the Office of Environmental Compliance with the DMR the level of production that actually occurred during each month and the limitations, standards, or prohibitions applicable to that level of production.

C. – I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), LR 28:470 (March 2002), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2513 (October 2005), LR 33:

**Chapter 31. General LPDES Program Requirements**

**§3115. Public Comments and Requests for Public Hearings**

A. During the public comment period provided under LAC 33:IX.3113, any interested person may submit written

comments to the Office of Environmental Services on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in LAC 33:IX.3125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), repromulgated LR 30:231 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2513 (October 2005), LR 33:

### **§3117. Public Hearings**

A.1. – A.4. ...

B. Any person may submit to the Office of Environmental Services oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under LAC 33:IX.3113 shall automatically be extended to the close of any public hearing under this Section. The hearing officer may also extend the comment period by so stating at the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), repromulgated LR 30:231 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2513 (October 2005), LR 33:

### **Chapter 45. Criteria for Determining Alternative Effluent Limitations under Section 316(a) of the Act**

#### **§4505. Early Screening of Applications for Section 316(a) of the Act Variances**

A. – A.4. ...

B. After submitting the early screening information under Subsection A of this Section, the discharger shall consult with the state administrative authority at the earliest practicable time (but not later than 30 days after the application is filed) to discuss the discharger's early screening information. Within 60 days after the application is filed, the discharger shall submit to the Office of Environmental Services, for approval, a detailed plan of study that the discharger will undertake to support its Section 316(a) of the Act demonstration. The discharger shall specify the nature and extent of the following type of information to be included in the plan of study: biological, hydrographical and meteorological data; physical monitoring data; engineering or diffusion models; laboratory studies; representative important species; and other relevant information. In selecting representative important species, special consideration shall be given to species mentioned in applicable water quality standards. After the discharger submits its detailed plan of study, the state administrative authority shall either approve the plan or specify any necessary revisions to the plan. The discharger shall provide any additional information or studies that the state

administrative authority subsequently determines necessary to support the demonstration, including such studies or inspections as may be necessary to select representative important species. The discharger may provide any additional information or studies that the discharger feels are appropriate to support the demonstration.

C. – F, NOTE. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2555 (November 2000), repromulgated LR 30:231 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2513 (October 2005), LR 33:

### **Chapter 57. Toxic Pollutant Effluent Standards and Prohibitions**

#### **§5709. Compliance**

A.1. Within 60 days from the date of promulgation of any toxic pollutant effluent standard or prohibition each owner or operator with a discharge subject to that standard or prohibition must notify the Office of Environmental Services of such discharge. Such notification shall include such information and follow such procedures as the state administrative authority may require.

A.2. – G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2555 (November 2000), repromulgated LR 27:191 (February 2001), LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2514 (October 2005), LR 33:

### **Chapter 61. General Pretreatment Regulations for Existing and New Sources of Pollution**

#### **§6113. Removal Credits**

A. – E.7. ...

F. Continuation and Withdrawal of Authorization

1. Effect of Authorization. Once a POTW has received authorization to grant removal credits for a particular pollutant regulated in a categorical pretreatment standard it may automatically extend that removal credit to the same pollutant when it is regulated in other categorical standards, unless granting the removal credit will cause the POTW to violate the sludge requirements identified in Subparagraph A.3.d of this Section or its LPDES permit limits and conditions as required by Subparagraph A.3.e of this Section. If a POTW elects at a later time to extend removal credits to a certain categorical pretreatment standard, industrial subcategory or one or more industrial users that initially were not granted removal credits, it must notify the Office of Environmental Services.

F.2. – H.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2555 (November 2000), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2514 (October 2005), LR 32:1035 (June 2006), LR 33:



**§6117. POTW Pretreatment Programs and/or Authorization to Revise Pretreatment Standards: Submission for Approval**

A. Who Approves Program. A POTW requesting approval of a POTW pretreatment program shall develop a program description that includes the information set forth in Paragraphs B.1-4 of this Section. This description shall be submitted to the Office of Environmental Services, which will make a determination on the request for program approval in accordance with the procedures described in LAC 33:IX.6121.

B. – D. ...

E. Approval Authority Action. Any POTW requesting POTW pretreatment program approval shall submit to the Office of Environmental Services three copies of the submission described in Subsection B of this Section, and, if appropriate, Subsection D of this Section. Within 60 days after receiving the submission, the Office of Environmental Services shall make a preliminary determination of whether the submission meets the requirements of Subsection B of this Section and, if appropriate, Subsection D of this Section. If the approval authority makes the preliminary determination that the submission meets these requirements, the approval authority shall:

E.1. – G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2555 (November 2000), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2514 (October 2005), LR 33:

**§6121. Approval Procedures for POTW Pretreatment Programs and POTW Granting of Removal Credits**

The following procedures shall be adopted in approving or denying requests for approval of POTW Pretreatment Programs and applications for removal credit authorization.

A. – B.1.a.ii. ...

b. the public notice shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the submission to the Office of Environmental Services; and

B.1.c. – F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 25:1093 (June 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2556 (November 2000), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2514 (October 2005), LR 33:

**§6123. Reporting Requirements for POTWs and Industrial Users**

A. – G.1. ...

2. If sampling performed by an industrial user indicates a violation, the user shall notify the Office of Environmental Services within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the

control authority within 30 days after becoming aware of the violation. Where the control authority has performed the sampling and analysis in lieu of the industrial user, the control authority must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Resampling is not required if:

G.2.a. – K.2. ...

3. Not later than 14 days following each date in the schedule and the final date for compliance, the POTW shall submit a progress report to the Office of Environmental Services, including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps taken by the POTW to return to the schedule established. In no event shall more than nine months elapse between such progress reports to the Office of Environmental Services.

L. – Q, Certification. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24:2122 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2556 (November 2000), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2514 (October 2005), LR 32:1038 (June 2006), LR 33:

**§6125. Variances from Categorical Pretreatment Standards for Fundamentally Different Factors**

A. – F. ...

G. Application Deadline

1. Requests for a variance and supporting information must be submitted in writing to the Office of Environmental Services or to the administrator (or his delegate), as appropriate.

G.2. – J.1.c. ...

2. The public notice shall provide for a period not less than 30 days following the date of the public notice during which time interested persons may review the request and submit their written views on the request to the Office of Environmental Services.

J.3. – L.2.b.iv. ...

c. notify the Office of Environmental Services and the POTW of his or her determination; and

L.2.d. – M.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2556 (November 2000), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2515 (October 2005), LR 33:

**§6135. Modification of POTW Pretreatment Programs**

A. – B.1.g. ...

C. Approval Procedures for Substantial Modifications

1. The POTW shall submit to the Office of Environmental Services a statement of the basis for the desired program modification, a modified program description (see LAC 33:IX.6117.B), or such other



documents the approval authority determines to be necessary under the circumstances.

2. – 4. ...

#### D. Approval Procedures for Nonsubstantial Modifications

1. The POTW shall notify the Office of Environmental Services of any other (i.e., nonsubstantial) modifications to its pretreatment program at least 45 days prior to when they are to be implemented by the POTW, in a statement similar to that provided for in Paragraph C.1 of this Section.

D.2. – E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24:2122 (November 1998), LR 25:1093 (June 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2556 (November 2000), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2515 (October 2005), LR 33:

### Chapter 65. Additional Requirements Applicable to the LPDES Program

#### §6507. Enforcement Actions

A. – A.6. ...

B. Exception. In cases where the application is withdrawn by the applicant, a written notification shall be provided to the Office of Environmental Services stating that no discharge or other activity that would require a permit from the Office of Environmental Services is currently taking place. Provided that the application was not made in response to previous enforcement action, the applicant is then exempt from enforcement action for causes listed under Paragraphs A.3 and 4 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:726 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2557 (November 2000), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2515 (October 2005), LR 33:

### Part XI. Underground Storage Tanks

#### Chapter 3. Registration Requirements, Standards, and Fee Schedule

#### §301. Registration Requirements

A. – A.2. ...

3. All existing UST systems previously registered with the department shall be considered to be in compliance with this requirement if the information on file with the department is current and accurate. Maintaining current and accurate information with the department includes notifying the department's Office of Environmental Assessment of changes in ownership, or of changes in UST system descriptions resulting from upgrading, by filing an amended registration form within 30 days of the change in ownership or in description of the UST system.

B. New UST Systems. Upon the effective date of these regulations, all owners of new *UST systems* (as defined in LAC 33:XI.103) must, at least 30 days before bringing such tanks into use, register them on an *Underground Storage*

*Tank Registration Form* (UST-REG-01). Registration forms shall be filed with the Office of Environmental Assessment. The following registration requirements apply to new UST systems:

B.1. – C. ...

1. Any person who sells a UST system shall so notify the Office of Environmental Assessment in writing within 30 days after the date of the transaction. A person selling a UST must also notify the person acquiring a regulated UST system of the owner's registration obligations under this Section.

2. Any person who acquires a UST system shall submit to the Office of Environmental Assessment an amended registration form within 30 days after the date of acquisition.

3. – 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), LR 20:294 (March 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:475 (March 2002), amended by the Office of Environmental Assessment, LR 31:1066 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2520 (October 2005), repromulgated LR 32:393 (March 2006), amended LR 32:1852 (October 2006), LR 33:

#### §303. Standards for UST Systems

A. – B.4.b.i.(e). ...

ii. Beginning January 20, 1992, all owners and operators must ensure that the individual exercising supervisory control over *installation-critical junctures* (as defined in LAC 33:XI.1303) of a UST system is certified in accordance with LAC 33:XI.Chapter 13. To demonstrate compliance with Subparagraph B.4.a of this Section, all owners and operators must provide a certification of compliance on the *UST Registration of Technical Requirements Form* (UST-REG-02) within 60 days of the introduction of any regulated substance. Forms shall be filed with the Office of Environmental Assessment.

c. Notification of Installation. The owner and operator must notify the Office of Environmental Assessment in writing at least 30 days before beginning installation of a UST system by:

i. ...

ii. notifying the appropriate regional office of the Office of Environmental Assessment by mail or fax seven days prior to commencing the installation and before commencing any *installation-critical juncture* (as defined in LAC 33:XI:1303);

B.4.c.iii. – C.5. ...

#### 6. Reporting Requirements

a. The owner and operator must notify the Office of Environmental Assessment in writing at least 30 days before beginning a UST system upgrade.

b. An amended registration form (UST-REG-02) must be submitted to the Office of Environmental Assessment within 30 days after the UST system is upgraded. The owner and operator must certify compliance with Subsection C of this Section on the amended registration form (UST-REG-02). Beginning January 20, 1992, the amended registration forms (UST-REG-01 and 02)

shall include the name and department-issued certificate number of the individual exercising supervisory control over those steps in the upgrade that involve *repair-critical junctures* or *installation-critical junctures* (as defined in LAC 33:XI.1303) of a UST system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:475 (March 2002), amended by the Office of Environmental Assessment, LR 31:1066 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2520 (October 2005), LR 33:

## **Chapter 5. General Operating Requirements**

### **§507. Repairs Allowed**

A. ...

1. Except in emergencies, the owner and operator shall notify the Office of Environmental Assessment in advance of the necessity for conducting a repair to a UST system.

A.2. – B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), amended by the Office of Environmental Assessment, LR 31:1070 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

## **Chapter 7. Methods of Release Detection and Release Reporting, Investigation, Confirmation, and Response**

### **§701. Methods of Release Detection**

A. – A.8.a. ...

b. The release-detection method has been approved by the Office of Environmental Assessment on the basis of a demonstration by the owner and operator that the method can detect a release as effectively as any of the methods allowed in Paragraphs A.3-8 of this Section. In comparing methods, the Office of Environmental Assessment shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner and operator must comply with any conditions imposed on its use by the Office of Environmental Assessment.

B. – B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, LR 31:1072 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

### **§715. Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances**

A. – C.1.f. ...

2. Within 20 days after release confirmation or another reasonable period of time determined by the department in writing, owners and operators must submit a report to the Office of Environmental Assessment summarizing the initial abatement steps taken under Paragraph C.1 of this Section and any resulting information or data.

D. – D.1.e. ...

2. Within 60 days of release confirmation or another reasonable period of time determined by the department in writing, owners and operators must submit the information collected in compliance with Paragraph D.1 of this Section to the Office of Environmental Assessment in a manner that demonstrates its applicability and technical adequacy, or in a format and according to the schedule required by the department.

E. Free Product Removal. At sites where investigations under Subparagraph C.1.f of this Section indicate the presence of free product, owners and operators must remove free product to the maximum extent practicable as determined by the Office of Environmental Assessment, while continuing, as necessary, any actions initiated under Subsections B-D of this Section, or preparing for actions required under Subsections F-G of this Section. To meet the requirements of this Subsection, owners and operators must take the following actions.

1. – 3. ...

4. Unless directed to do otherwise by the department, prepare and submit to the Office of Environmental Assessment, within 45 days after confirming a release, a free product removal report that provides at least the following information:

E.4.a. – G.4. ...

a. notify the Office of Environmental Assessment of their intention to begin cleanup;

G.4.b. – H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of the Secretary, LR 24:2253 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), LR 30:1677 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

## **Chapter 9. Out-of-Service UST Systems and Closure**

### **§903. Temporary Closure**

A. – B.2. ...

3. submit a completed copy of the registration form UST-REG-01 to the Office of Environmental Assessment, indicating the dates the UST system was temporarily closed.

C. ...

D. When a UST system is temporarily closed for more than 24 months, owners and operators shall complete a site assessment in accordance with LAC 33:XI.907. The results of the assessment and documentation of compliance with the temporary closure requirements in Subsection A of this Section must be submitted in duplicate to the Office of Environmental Assessment within 60 days following the end of the 24-month temporary closure period.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, LR 31:1074 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2520 (October 2005), LR 33:

#### **§905. Permanent Closure and Changes-in-Service**

A. At least 30 days before beginning either permanent closure or a change-in-service under Subsections B, C, and D of this Section, owners and operators must notify the Office of Environmental Assessment of their intent to permanently close or make the change-in-service, unless such action is in response to corrective action.

1. – 1.a. ...

b. notifying the appropriate regional office of the Office of Environmental Assessment by mail or fax at least seven days prior to implementing the removal or change.

A.2. – D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000), amended by the Office of Environmental Assessment, LR 31:1074 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

#### **§907. Assessing the Site at Closure or Change-in-Service**

A. Before permanent closure or a change-in-service is completed, owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST site, utilizing the procedure approved by the department. In selecting sample types, sample locations, and measurement methods, owners and operators must consider the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater, and other factors appropriate for identifying the presence of a release. Results of this assessment must be submitted in duplicate to the Office of Environmental Assessment within 60 days following permanent closure or change in service. The assessment results shall include a site diagram indicating locations where samples were collected and a written statement specifying which USTs have been closed.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000), amended by the Office of Environmental Assessment, LR 31:1074 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

### **Chapter 11. Financial Responsibility**

#### **§1111. Financial Test of Self-Insurance**

A. – C.5.b. ...

D. To demonstrate that it meets the financial test under Subsection B or C of this Section, the chief financial officer of the owner or operator, or guarantor, must sign, within 120

days of the close of each *financial reporting year*, as defined by the 12-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted. To prepare this letter, the owner or operator must use the form required by the department. This form may be obtained from the Office of Environmental Assessment.

LETTER FROM CHIEF FINANCIAL OFFICER

\* \* \*

[See Prior Text in Letter]

E. – F. ...

G. If the owner or operator fails to obtain alternate assurance within 150 days of finding that he or she no longer meets the requirements of the financial test based on the year-end financial statements, or within 30 days of notification by the administrative authority that he or she no longer meets the requirements of the financial test, the owner or operator must notify the Office of Environmental Assessment of such failure within 10 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000), LR 27:2232 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005), LR 33:

#### **§1113. Guarantee**

A. – A.2. ...

B. Within 120 days of the close of each financial reporting year the guarantor must demonstrate that it meets the financial test criteria of LAC 33:XI.1111 based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in LAC 33:XI.1111.D and must deliver the letter to the owner or operator. If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, within 120 days of the end of that financial reporting year the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator and to the Office of Environmental Assessment. If the Office of Environmental Assessment notifies the guarantor that he no longer meets the requirements of the financial test of LAC 33:XI.1111.B or C and D, the guarantor must notify the owner or operator within 10 days of receiving such notification from the Office of Environmental Assessment. In both cases, the guarantee will terminate no less than 120 days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator must obtain alternative coverage as specified in LAC 33:XI.1139.C.

C. – D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000),

amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005), LR 33:

### **§1123. Trust Fund**

A. – C. ...

D. If the value of the trust fund is greater than the required amount of coverage, the owner or operator may submit a written request to the Office of Environmental Assessment for release of the excess.

E. If other financial assurance as specified in this Chapter is substituted for all or part of the trust fund, the owner or operator may submit a written request to the Office of Environmental Assessment for release of the excess.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005), LR 33:

### **§1129. Cancellation or Nonrenewal by a Provider of Financial Assurance**

A. – A.2. ...

B. If a provider of financial responsibility cancels or fails to renew for reasons other than incapacity of the provider as specified in LAC 33:XI.1131, the owner or operator must obtain alternate coverage as specified in this Section within 60 days after receipt of the notice of termination. If the owner or operator fails to obtain alternate coverage within 60 days after receipt of the notice of termination, the owner or operator must notify the Office of Environmental Assessment of such failure and submit:

1. – 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005), LR 33:

### **§1131. Reporting by Owner or Operator**

A. An owner or operator must submit to the Office of Environmental Assessment the appropriate forms listed in LAC 33:XI.1133.B documenting current evidence of financial responsibility as follows.

A.1. – C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005), LR 33:

### **§1139. Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance**

A. Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming an owner or operator as debtor, the owner or operator must notify the Office of Environmental

Assessment by certified mail of such commencement and submit the appropriate forms listed in LAC 33:XI.1133.B documenting current financial responsibility.

B. – D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), amended by the Office of Environmental Assessment, LR 31:1578 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005), LR 33:

### **Chapter 12. Requirements for Response Action Contractors who Assess and Remediate Motor Fuel Contaminated Sites Eligible for Cost Reimbursement in Accordance with the Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF)**

#### **§1205. Qualifications**

A. – B. ...

C. The RAC List will be updated once per quarter to include applicants who have met the requirements of this Section. All new applications or annual updates shall be submitted to the Office of Environmental Assessment by 4:30 p.m. on or before the fifteenth day of March, June, September, and December.

D. – E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2194(C) and 2195.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:523 (April 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005), LR 33:

#### **§1209. Suspension/Revocation from RAC Listing**

A. – D.1.b. ...

c. unless the RAC, within 30 days after receipt of the notice, submits a request for an informal hearing before the board, the department shall recommend to the administrative authority that the RAC's listing be suspended or revoked. The request for informal hearing shall be submitted to the Office of Management and Finance. A written statement giving the RAC's view of the circumstances shall accompany the request for hearing.

D.2. – F.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2194(C) and 2195.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:524 (April 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

### **Chapter 13. Certification Requirements for Persons Who Install, Repair, or Close Underground Storage Tank Systems**

#### **§1305. Categories of Certification and Requirements for Issuance and Renewal of Certificates**

A. – A.2. ...

B. Requirements for Certification Examination

1. To qualify for an examination, a person need not be a resident of Louisiana. A person must provide, to the Office of Environmental Assessment, payment of the examination

fee and meet the following requirements to be eligible for a UST certification examination.

B.1.a. – E. ...

F. Expiration and Renewal of Certificates

1. All UST certificates and certificate renewals shall expire December 31 of every second year. Applications for certificate renewal and payment of the renewal fee should be submitted to the Office of Environmental Assessment by November 1 of each year they expire. A person whose certificate has expired prior to his or her submission of evidence of compliance with Paragraph F.2 of this Section shall be considered a new applicant for certification.

F.2. – G.2. ...

H. Changes in Employment. It is incumbent upon a certified person to provide written notification to the Office of Environmental Assessment within 20 days after his or her knowledge of a change in employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), LR 29:691 (May 2003), LR 29:2052 (October 2003), amended by the Office of Environmental Assessment, LR 30:2804 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005), LR 33:

**§1309. Approval of Continuing Training Courses**

A. No course in continuing education submitted to the Office of Environmental Assessment will be considered for approval unless the course:

1. – 2. ...

B. Applications for approval of specific training programs shall be submitted to the Office of Environmental Assessment in writing. Such submissions shall contain a complete course outline; training material; sample certificates; methodology for verifying attendance; date, time, and location of the course; the name of the offering organization; the credentials of the instructors; and a certification that the technology or methods that will be presented in the training program will satisfy department rules, and state and federal laws governing UST system installation, repair, or closure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005), LR 33:

**Part XV. Radiation Protection**

**Chapter 1. General Provisions**

**§102. Definitions and Abbreviations**

As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain chapter may be found in that chapter.

\* \* \*

SPOC—Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC).

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 19:1421 (November 1993), LR 20:650 (June 1994), LR 22:967 (October 1996), LR 24:2089 (November 1998), repromulgated LR 24:2242 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2563 (November 2000), LR 26:2767 (December 2000), LR 30:1171, 1188 (June 2004), amended by the Office of Environmental Assessment, LR 31:44 (January 2005), LR 31:1064 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:811 (May 2006), LR 32:1853 (October 2006), LR 33:1016 (June 2007), LR 33:

**Chapter 2. Registration of Radiation Machines and Facilities**

**§204. Application for Registration of Radiation Machines and Facilities**

A. ...

1. apply for registration of such facility and each radiation machine with the Office of Environmental Compliance prior to the operation of a radiation machine facility. Application for registration shall be completed on Form DRC-6 furnished by the department upon request in writing and shall contain all the information required by the form and accompanying instructions. The registration of the first radiation producing machine at a facility constitutes registration of the facility itself;

2. – 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2565 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2523 (October 2005), LR 33:

**§205. Application for Registration of Servicing and Services**

A. Each person who is engaged in the business of installing or offering to install radiation machines or is engaged in the business of furnishing or offering to furnish radiation machine servicing or services in this state shall apply for registration of such services with the Office of Environmental Compliance within 30 days after the effective date of this Chapter or thereafter prior to furnishing or offering to furnish any such services.

B. Application for registration shall be completed on Form DRC-22 furnished by the Office of Environmental Compliance upon request in writing and shall contain all information required by the form and accompanying instructions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2565

(November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2523 (October 2005), LR 33:

### **§209. Report of Changes**

A. The registrant shall notify the Office of Environmental Compliance in writing before making any change that would render the information contained in the application for registration and/or registration certificate no longer accurate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2566 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2523 (October 2005), LR 33:

### **§211. Assembler and/or Transferor Obligation**

A. Any person who sells, leases, transfers, lends, disposes, assembles, or installs radiation machines in this state shall notify the Office of Environmental Compliance at 15-day intervals of:

A.1. – C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2566 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2523 (October 2005), LR 33:

### **§212. Reciprocal Recognition of Out-of-State Radiation Machines**

A. ...

1. the person proposing to bring such machine into the state shall give written notice to the Office of Environmental Compliance at least three working days before such machine is to be used in the state. Additional requirements for work involving industrial radiography at temporary job sites may be found in LAC 33:XV.Chapter 5. The notice shall include:

a. – c. ...

2. if, for a specific case, the three-working-day period would impose an undue hardship on the person, upon written application to the Office of Environmental Compliance permission to proceed sooner may be granted.

B. – B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2566 (November 2000), LR 29:1815 (September 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2523 (October 2005), LR 33:

### **§213. Modification, Revocation, and Termination of Registration Certificate**

A. – C. ...

D. The department will terminate a registration certificate upon written request by the registrant, provided

the registrant no longer possesses the registered device or provided the registrant has rendered the unit permanently incapable of producing radiation. The registrant shall notify the Office of Environmental Compliance within 60 days of the final disposition of the X-ray machine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2566 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2524 (October 2005), LR 33:

## **Chapter 3. Licensing of Radioactive Material**

### **Subchapter B. Licenses**

#### **§320. Types of Licenses**

A. ...

1. General licenses provided in this Chapter are effective without the filing of application with the Office of Environmental Compliance or the issuance of licensing documents to the particular persons, although the filing of certain information with the Office of Environmental Compliance may be required by the particular general license. The general licensee is subject to all other applicable portions of these regulations and to any limitations of the general license.

2. Specific licenses require the submission of an application to the Office of Environmental Compliance and the issuance of a licensing document by the administrative authority. The licensee is subject to all applicable portions of these regulations as well as to any limitations specified in the licensing document. The licensee shall notify the Office of Environmental Compliance in writing before making any change that would render the information contained in the application for license no longer accurate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2566 (November 2000), LR 29:1816 (September 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2524 (October 2005), LR 33:

### **Subchapter C. General Licenses**

#### **§321. General Licenses: Source Material**

A. – E.2. ...

3. Depleted Uranium

a. Persons who receive, acquire, possess, or use depleted uranium pursuant to the general license established by Paragraph E.1 of this Section shall file Form DRC-21, "General License Certificate—Use of Depleted Uranium Under General License," with the Office of Environmental Compliance. Form DRC-21 will be furnished by the Office of Environmental Compliance upon written request. The form shall be submitted within 30 days after the first receipt or acquisition of such depleted uranium. The general licensee shall furnish on Form DRC-21 the following information and such other information as may be required by that form:

i. – iii. ...

b. The licensee possessing or using depleted uranium under the general license established by Paragraph E.1 of this Section shall report in writing to the Office of Environmental Compliance any changes in information furnished by him in Form DRC-21, "General License Certificate—Use of Depleted Uranium Under General License." The report shall be submitted within 30 days after the effective date of such change.

4. – 4.c. ...

d. within 30 days of any transfer, shall report in writing to the Office of Environmental Compliance the name and address of the person receiving the depleted uranium pursuant to such transfer; and

4.e. – 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2524 (October 2005), LR 33:

### **§322. General Licenses: Radioactive Material Other Than Source Material**

A. – D.3.d. ...

e. upon the occurrence of a failure of or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 0.005 microcurie or more of removable radioactive material, immediately suspend operation of the device until it has been repaired by the manufacturer or other person holding an applicable specific license from the administrative authority, the U.S. Nuclear Regulatory Commission, or any other agreement state or licensing state to repair such devices, or disposed of by transfer to a person authorized by an applicable specific license to receive the radioactive material contained in the device and, within 30 days, furnish to the Office of Environmental Compliance a report containing a brief description of the event and the remedial action taken;

f. ...

g. except as provided in Subparagraph D.3.h of this Section, transfer or dispose of the device containing radioactive material only by export as provided in 10 CFR Part 110 or by transfer to a specific licensee of the department, the U.S. Nuclear Regulatory Commission, or any other agreement state or licensing state whose specific license authorizes him or her to receive the device and, within 30 days after transfer of a device to a specific licensee, except when the device is transferred to the specific licensee in order to obtain a replacement device, shall furnish to the Office of Environmental Compliance a report containing:

g.i. – h. ...

i. where the device remains in use at a particular location. In such case the transferor shall give the transferee a copy of this regulation and any safety documents identified in the label on the device and, within 30 days of the transfer, report to the Office of Environmental Compliance the manufacturer's (or the initial transferor's) name; the model

number and serial number of the device transferred; the name, mailing address for the location of use, and license number of the transferee; the date of the transfer; and the name and/or position of an individual who may constitute a point of contact between the department and the transferee; or

h.ii. – l. ...

i. annual registration with the Office of Environmental Compliance shall include payment of the fee required by LAC 33:XV.2505. Registration must be done by verifying, correcting, and/or adding to the information provided in a request for registration received from the department. The registration information must be submitted to the department within 30 days of the date of the request for registration or as otherwise indicated in the request;

ii. – iii. ...

m. report changes to the mailing address for the location of use (including change in the name of the general licensee) to the Office of Environmental Compliance within 30 days of the effective date of the change. For a portable device, a report of address change is only required for a change in the device's primary place of storage;

D.3.n. – J.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:1226 (August 2001), LR 30:1663 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2524 (October 2005), LR 32:811 (May 2006), LR 33:448 (March 2007), LR 33:

### **Subchapter D. Specific Licenses**

#### **§324. Filing Application for Specific Licenses**

A. Applications for specific licenses shall be filed on a form prescribed by the Office of Environmental Compliance or in any other manner specified by the department.

B. – J.13. ...

K. The licensee shall allow the off-site response organizations expected to respond in case of accident 60 days to comment on the licensee's emergency plan before submitting it to the Office of Environmental Compliance. The licensee shall provide any comments received within the 60 days to the Office of Environmental Compliance with the emergency plan.

<sup>1</sup>These reporting requirements do not supersede or release licensees of complying with requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other state or federal reporting requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 20:179 (February 1994), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:1227 (August 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2525 (October 2005), LR 33:



**§325. General Requirements for the Issuance of Specific Licenses**

A. – D.3.a. ...

b. submit a certification that financial assurance for decommissioning has been provided in the amount prescribed by Paragraph D.5 of this Section using one of the methods described in Paragraph D.7 of this Section. For an applicant, this certification may state that the appropriate assurance will be obtained after the application has been approved and the license issued, but prior to the receipt of licensed material. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of Paragraph D.7 of this Section shall be submitted to the Office of Environmental Compliance before receipt of licensed material. If the applicant does not defer execution of the financial instrument, the applicant shall submit to the Office of Environmental Compliance, as part of the certification, a signed original of the financial instrument obtained to satisfy the requirements of Paragraph D.7 of this Section.

4. – 7.b. ...

i. The surety method or insurance must be open-ended or, if written for a specified term, such as five years, must be renewed automatically unless 90 days or more prior to the renewal date, the issuer notifies the Office of Environmental Compliance, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance must also provide that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the department within 30 days after receipt of notification of cancellation.

7.b.ii. – 8.d.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 23:1140 (September 1997), LR 24:2091 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1017 (May 2000), LR 26:2568 (November 2000), LR 27:1227 (August 2001), amended by the Office of Environmental Assessment, LR 31:44 (January 2005), LR 31:1578 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

**§326. Special Requirements for Issuance of Certain Specific Licenses for Radioactive Material**

A. – E.1. ...

a. The applicant will have an adequate program for training radiographers and submits to the Office of Environmental Compliance a schedule or description of such program that specifies the:

i. – iv. ...

b. The applicant has established and submits to the Office of Environmental Compliance satisfactory written operating and emergency procedures as described in LAC 33:XV.576.

c. ...

d. The applicant submits to the Office of Environmental Compliance a description of his or her overall organizational structure pertaining to the industrial

radiography program, including specified delegations of authority and responsibility for operation of the program.

e. The applicant who desires to conduct his or her own leak tests of sealed sources or exposure devices containing depleted uranium (DU) shielding has established adequate procedures to be followed in testing for possible leakage and contamination and submits to the Office of Environmental Compliance a description of such procedures including:

e.i. – k. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000), LR 27:1228 (August 2001), LR 30:1188 (June 2004), amended by the Office of Environmental Assessment, LR 31:45 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2525 (October 2005), LR 33:

**§328. Special Requirements for Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Radioactive Material**

A. – A.1. ...

a. the applicant submits to the Office of Environmental Compliance a description of the product or material into which the radioactive material will be introduced, the intended use of the radioactive material, and the product or material into which it is introduced, method of introduction, initial concentration of the radioactive material in the product or material, control methods to ensure that no more than the specified concentration is introduced into the product or material, estimated time interval between introduction and transfer of the product or material, and estimated concentration of the radioactive material in the product or material at the time of transfer;

b. ...

2. Each person licensed under this Subsection shall file an annual report with the Office of Environmental Compliance that shall identify the type and quantity of each product or material into which radioactive material has been introduced during the reporting period; name and address of the person who owned or possessed the product or material into which radioactive material has been introduced, at the time of introduction; the type and quantity of radionuclide introduced into each such product or material; and the initial concentrations of the radionuclide in the product or material at time of transfer of the radioactive material by the licensee. If no transfers of radioactive material have been made pursuant to this Subsection during the reporting period, the report shall so indicate. The report shall cover the year ending June 30 and shall be filed within 30 calendar days thereafter.

B. – B.1.a.ii. ...

iii. the applicant submits copies of prototype labels and brochures, and the Office of Environmental Compliance approves such labels and brochures.

b. – b.iv.(c). ...



c. Each person licensed under this Subsection shall maintain records identifying, by name and address, each person to whom radioactive material is transferred for use under LAC 33:XV.304.B or the equivalent regulations of the licensing state and stating the kinds and quantities of radioactive material transferred. An annual summary report stating the total quantity of each radionuclide transferred under the specific license shall be filed with the Office of Environmental Compliance. Each report shall cover the year ending June 30 and shall be filed within 30 calendar days thereafter. If no transfers of radioactive material have been made pursuant to this Subsection during the reporting period, the report shall so indicate.

C. – D.1.a. ...

b. The applicant submits to the Office of Environmental Compliance sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance of the following.

1.b.i. – 4.a. ...

b. Report all transfers of devices to persons for use under the general license in LAC 33:XV.322.D.1 and all receipts of devices from persons licensed under LAC 33:XV.322.D.1 to the Office of Environmental Compliance. The report must be submitted on a quarterly basis on a RAD-41 Form or in a clear and legible report containing all of the data required by the form.

b.i. – d. ...

e. Report to the Office of Environmental Compliance all transfers of such devices to persons for use under the general license in LAC 33:XV.322.D. Such reports must be maintained for a period of three years following the date of the recorded event and shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the department and the general licensee, the type and model number of device transferred, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of each intermediate person by name, address, contact, and relationship to the intended user. If no transfers have been made to persons generally licensed under LAC 33:XV.322.D during the reporting period, the report shall so indicate. The report shall cover each calendar quarter and shall be filed within 30 days thereafter.

D.4.f. – J.1.a. ...

b. the applicant submits to the Office of Environmental Compliance evidence that the applicant is at least one of the following:

i. – iv. ...

c. the applicant submits to the Office of Environmental Compliance information on the radionuclide, chemical and physical form, packaging including maximum activity per package, and shielding provided by the radioactive material that is appropriate for safe handling and storage of radiopharmaceuticals by group licensees; and

1.d. – 2.d. ...

e. shall provide to the Office of Environmental Compliance a copy of each individual's certification by the

Board Of Pharmaceutical Specialties and the department, licensing state, Nuclear Regulatory Commission, or agreement state license or the permit issued by a licensee of broad scope and a copy of the state pharmacy licensure or registration, no later than 30 days after the date that the licensee allows the individual to work as an authorized nuclear pharmacist, in accordance with Clauses J.2.b.i and iii of this Section.

J.3. – L.1.a. ...

b. The applicant submits to the Office of Environmental Compliance sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:

L.1.b.i. – M.1.a. ...

b. the applicant submits to the Office of Environmental Compliance sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses, and potential hazards of the industrial product or device to provide reasonable assurance that possession, use, or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive in any period of one calendar quarter a radiation dose in excess of 10 percent of the limits specified in LAC 33:XV.410.A; and

c. the applicant submits to the Office of Environmental Compliance sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.

2. – 4.d.ii. ...

e. report to the Office of Environmental Compliance all transfers of industrial products or devices to persons for use under the general license in LAC 33:XV.321.E. Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the department and the general licensee, the type and model number of device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which such a product or device is transferred to the generally licensed person. If no transfers have been made to persons generally licensed under LAC 33:XV.321.E during the reporting period, the report shall so indicate;

f. – g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000), LR 26:2768 (December 2000), LR 27:1228 (August 2001), LR 30:1664 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2526 (October 2005), LR 33:

### **§331. Specific Terms and Conditions of Licenses**

A. – C. ...

D. Each licensee shall notify the Office of Environmental Compliance in writing when the licensee decides to

permanently discontinue all activities involving materials authorized under the license. This notification requirement applies to all specific licenses issued under this Chapter.

E. Each licensee shall notify the Office of Environmental Compliance in writing immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapter of Title 11 (Bankruptcy) of the *United States Code* by or against:

E.1. – F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2571 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2527 (October 2005), LR 33:

### **§332. Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas**

A. ...

B. Each licensee shall notify the Office of Environmental Compliance immediately, in writing, and request termination of the license when the licensee decides to terminate all activities involving radioactive material authorized under the license. This notification and request for termination of the license must include the reports and information specified in Subparagraph D.1.e of this Section.

C. – C.1. ...

2. notify the Office of Environmental Compliance, in writing, if the licensee decides not to renew the license.

D. – D.1.c. ...

d. submit a completed form to the Office of Environmental Compliance that certifies information concerning the disposition of materials; and

e. submit a radiation survey report to the Office of Environmental Compliance to confirm the absence of radioactive material or to establish the levels of residual radioactive contamination, unless the licensee demonstrates the absence of residual radioactive contamination in some other manner. The licensee shall, as appropriate:

1.e.i. – 5.c.ii.(b). ...

6. Timeliness of Decommissioning

a. Within 60 days of the occurrence of any of the following, each licensee shall provide notification to the Office of Environmental Compliance in writing of such occurrence and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity, so that the building or outdoor area is suitable for release for unrestricted use, or submit within 12 months of notification a decommissioning plan, if required by Paragraph D.2 of this Section, and begin decommissioning upon approval of that plan if:

D.6.a.i. – E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 24:2094 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning

Division, LR 26:2571 (November 2000), LR 26:2768 (December 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2527 (October 2005), LR 33:

### **§361. Registration of Product Information**

A. ...

B. The request for review must be sent by an appropriate method to the Office of Environmental Compliance.

C. – G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:45 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005), LR 33:1017 (June 2007), LR 33:

### **Subchapter E. Reciprocity**

#### **§390. Reciprocal Recognition of Licenses**

A. – A.1. ...

2. For each separate location in Louisiana, the out-of-state licensee notifies the Office of Environmental Compliance in writing at least three working or business days prior to engaging in such activity. Such notification shall indicate the location, period, and type of proposed possession and use within the state and shall be accompanied by a copy of the pertinent licensing document. If, for a specific case, the three working or business day period would impose an undue hardship on the out-of-state licensee, he or she may, upon written application to the Office of Environmental Compliance obtain permission to proceed sooner. The department may waive the requirement for filing additional written notifications following the receipt of the initial written notification from a person engaging in activities under the general license provided in this Subsection.

3. – 5. ...

6. Any out-of-state licensee who establishes a permanent office in Louisiana shall notify the Office of Environmental Compliance within 10 calendar days of establishing such office and shall, upon direction by the department and within 30 calendar days, make application for a radioactive material license in accordance with LAC 33:XV.326.E.

A.7. – B. ...

1. Such person shall file a report with the Office of Environmental Compliance within 30 calendar days after the end of each calendar quarter in which any device is transferred to or installed in this state. Each such report shall identify each general licensee to whom such device is transferred by name and address, the type of device transferred, and the quantity and type of radioactive material contained in the device.

B.2. – C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2574 (November 2000), LR 26:2768 (December 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005), LR 33:

## Subchapter Z. Appendices

### §399. Schedules A and B, and Appendices A, B, C, D, E, F, and G

Schedule A. – Appendix A. ...

Appendix B

Criteria Relating to Use of Financial Tests and Parent Company Guarantees for Providing Reasonable Assurance of Funds for Decommissioning

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on obtaining a parent company guarantee that funds will be available for decommissioning costs and on a demonstration that the parent company passes a financial test. This Appendix establishes criteria for passing the financial test and for obtaining the parent company guarantee.

A. – A.2.c. ...

B. The parent company's independent certified public accountant must have compared the data used by the parent company in the financial test, which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure the licensee shall inform the Office of Environmental Compliance within 90 days of any matters coming to the auditor's attention which cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

C. ...

D. If the parent company no longer meets the requirements of Subsection A of this Appendix, the licensee must send notice to the Office of Environmental Compliance of intent to establish alternate financial assurance as specified in these regulations. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the parent company no longer meets the financial test requirements. The licensee must provide alternate financial assurance within 120 days after the end of such fiscal year.

E. ...

1. the parent company guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the licensee and the Office of Environmental Compliance. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the licensee and the department, as evidenced by the return receipt;

2. – 4. ...

Appendix C. – Appendix G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 20:180 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2574 (November 2000), LR 27:1228 (August 2001), amended by the Office of Environmental Assessment, LR 31:46 (January 2005), LR 31:1580 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005), LR 32:820 (May 2006), LR 32:1853 (October 2006), LR 33:449 (March 2007), LR 33:1017 (June 2007), LR 33:

## Chapter 4. Standards for Protection against Radiation

### Subchapter C. Surveys and Monitoring

#### §430. General

A. – C.1.b. ...

2. Dosimetry reports received from the processor must be recorded and maintained indefinitely or until the Office of Environmental Compliance terminates the license.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended LR 20:653 (June 1994), LR 22:971 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:1468 (August 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2529 (October 2005), LR 33:

### Subchapter D. Control of Exposure From External Sources in Restricted Areas

#### §436. Control of Access to High Radiation Areas

A. – B. ...

C. The licensee or registrant may apply to the Office of Environmental Compliance for approval of alternative methods for controlling access to high radiation areas.

D. – G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2576 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2529 (October 2005), LR 33:

#### §438. Control of Access to Very High Radiation Areas - Irradiators

A. – B.9.b. ...

c. the licensee or registrant shall submit to the Office of Environmental Compliance and adhere to a schedule for periodic tests of the entry control and warning systems;

10. – 11. ...

C. Licensees, registrants, or applicants for licenses or registrations for sources of radiation within the purview of Subsection B of this Section that will be used in a variety of positions or in locations, such as open fields or forests, that make it impracticable to comply with certain requirements of Subsection B of this Section, such as those for the automatic control of radiation levels, may apply to the Office of Environmental Compliance for approval of alternative safety measures. Alternative safety measures shall provide personnel protection at least equivalent to those specified in Subsection B of this Section. At least one of the alternative measures shall include an entry-preventing interlock control based on a measurement of the radiation that ensures the absence of high radiation levels before an individual can gain access to the area where such sources of radiation are used.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2576 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2529 (October 2005), LR 33:

#### **Subchapter E. Respiratory Protection and Controls to Restrict Internal Exposure in Restricted Areas**

##### **§442. Use of Individual Respiratory Protection Equipment**

A. – A.1. ...

2. the licensee or registrant may use equipment that has not been tested or certified by NIOSH/MSHA, has not had certification extended by NIOSH/MSHA, or for which there is no schedule for testing or certification, provided the licensee or registrant has submitted to the Office of Environmental Compliance and the Office of Environmental Compliance has approved an application for authorized use of that equipment, including a demonstration by testing, or a demonstration on the basis of test information, that the material and performance characteristics of the equipment are capable of providing the proposed degree of protection under anticipated conditions of use;

A.3. – B.1. ...

2. the licensee or registrant shall obtain authorization from the Office of Environmental Compliance before assigning respiratory protection factors in excess of those specified in LAC 33:XV.499.Appendix A. The department may authorize a licensee or registrant to use higher protection factors on receipt of an application that:

B.2.a. – C. ...

D. The licensee or registrant shall notify the Office of Environmental Compliance in writing at least 30 days before the date that respiratory protection equipment is first used pursuant to either Subsection A or B of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:972 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2577 (November 2000), LR 29:1469 (August 2003), LR 30:1666 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2529 (October 2005), LR 32:812 (May 2006), LR 33:

#### **Subchapter H. Waste Disposal**

##### **§461. Method for Obtaining Approval of Proposed Disposal Procedures**

A. A licensee or registrant or applicant for a license or registration may apply to the Office of Environmental Compliance for approval of proposed procedures, not otherwise authorized in these regulations, to dispose of licensed or registered sources of radiation generated in the licensee's or registrant's operations. Each application shall include:

1. – 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation

Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2577 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2529 (October 2005), LR 33:

#### **Subchapter J. Records**

##### **§488. Reports of Planned Special Exposures**

A. The licensee or registrant shall submit a written report to the Office of Environmental Compliance within 30 days following any planned special exposure conducted in accordance with LAC 33:XV.415, informing the department that a planned special exposure was conducted and indicating the date the planned special exposure occurred and the information required by LAC 33:XV.475.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2579 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2530 (October 2005), LR 33:

##### **§490. Reports of Individual Monitoring**

A. – A.3, Footnote <sup>a</sup>. ...

B. Each licensee or registrant in a category listed in Subsection A of this Section shall submit to the Office of Environmental Compliance an annual report of the results of individual monitoring carried out by the licensee or registrant for each individual for whom monitoring was required by LAC 33:XV.431 during that year. The licensee or registrant may include additional data for individuals for whom monitoring was provided but not required. The licensee or registrant shall use department Form DRC-5 or equivalent or electronic media containing all the information required by department Form DRC-5.

C. The licensee or registrant shall file the report required by Subsection B of this Section, covering the preceding year, on or before April 30 of each year. The licensee or registrant shall submit the report to the Office of Environmental Compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2579 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2530 (October 2005), LR 33:

#### **Subchapter K. Additional Requirements**

##### **§496. Vacating Premises**

A. Each specific licensee or registrant shall, no less than 30 days before vacating or relinquishing possession or control of premises that may have been contaminated with radioactive material as a result of his activities, notify the Office of Environmental Compliance in writing of intent to vacate. When deemed necessary by the department, the licensee shall decontaminate the premises in such a manner as the department may specify.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November

1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2580 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2530 (October 2005), LR 33:

## **Subchapter Z. Appendices**

### **§499. Appendices A, B, C, D, E**

Appendix A. – Appendix C, Footnote 1. ...

Appendix D

Requirements for Transfer of Low-Level Radioactive Waste for Disposal at Land Disposal Facilities and Manifests

A. – H.2.g. ...

h. notify the shipper and the Office of Environmental Compliance when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

3. – 3.j. ...

k. notify the shipper and the Office of Environmental Compliance when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

4. – 4.b. ...

c. notify the shipper and the Office of Environmental Compliance when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

5. – 5.a. ...

b. be traced and reported. The investigation shall include tracing the shipment and filing a report with the Office of Environmental Compliance. Each licensee who conducts a trace investigation shall file a written report with the Office of Environmental Compliance within two weeks of completion of the investigation.

Appendix E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular 2104.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 20:653 (June 1994), LR 22:973 (October 1996), LR 24:2096 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2580 (November 2000), LR 28:1012 (May 2002), amended by the Office of Environmental Assessment, LR 31:48 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2530 (October 2005), LR 33:

## **Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations**

### **Subchapter B. Personal Radiation Safety Requirements for Radiographers**

#### **§575. Training and Testing**

A. – A.2.c. ...

d. The current Form DRC-20, available from the department or the department's website, must be submitted to the Office of Environmental Compliance documenting the on-the-job training.

A.3. – B.5. ...

6. The current Form DRC-20, available from the department or the department's website, must be submitted to the Office of Environmental Compliance documenting the on-the-job training, instruction in the subjects outlined in

Appendix A in this Chapter, and successful completion of a company-specific written examination.

B.7. – E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 20:999 (September 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 27:1235 (August 2001), LR 28:1951 (September 2002), LR 29:34 (January 2003), LR 29:1470 (August 2003), amended by the Office of Environmental Assessment, LR 30:2029 (September 2004), LR 31:54 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2531 (October 2005), LR 33:

#### **§577. Personnel Monitoring Control**

A. – C. ...

D. Direct reading dosimeters, such as electronic personal dosimeters or pocket dosimeters, shall be read and exposures recorded at least daily with use at the beginning and end of each shift, and records must be maintained for three years or until the Office of Environmental Compliance authorizes their disposition.

E. If an individual's pocket dosimeter is discharged beyond its range (i.e., goes "off-scale"), or an individual's electronic pocket dosimeter reads greater than 2 millisieverts (200 millirem) and the possibility of radiation exposure cannot be ruled out as the cause, industrial radiographic operations by that individual shall cease and the individual's personnel dosimeter shall be sent for processing immediately. The individual shall not return to work with sources of radiation until a determination of the radiation exposure has been made. This determination must be made by the RSO or the RSO's designee. The results of this determination must be recorded and maintained indefinitely or until the Office of Environmental Compliance authorizes their disposition.

F. Records of the pocket dosimeter readings shall be maintained for inspection by the department for three consecutive years. If the dosimeter readings were used to determine external radiation dose, the records shall be maintained indefinitely or until the Office of Environmental Compliance authorizes their disposition.

G. If a personnel dosimeter is lost or damaged, the worker shall cease work immediately until a replacement personnel dosimeter is provided and the exposure is calculated for the time period from issuance to loss or damage of the personnel dosimeter. The results of the calculated exposure and the time period for which the personnel dosimeter was lost or damaged must be recorded and maintained indefinitely or until the Office of Environmental Compliance authorizes their disposition.

H. – H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 27:1235 (August 2001), LR 28:1951 (September 2002), LR

29:35 (January 2003), LR 29:1470 (August 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2531 (October 2005), LR 33:

#### **§578. Reciprocity**

A. – A.2. ...

3. the applicant presents the certification to the Office of Environmental Compliance prior to entry into Louisiana; and

A.4. – B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 29:35 (January 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2531 (October 2005), LR 33:

#### **§579. Identification (I.D.) Cards for Radiographers or Radiographer Trainees**

A. – A.3. ...

4. Any individual who wishes to replace his/her I.D. card shall submit to the Office of Environmental Compliance a written request for a replacement I.D. card, stating the reason a replacement I.D. card is needed. A non-refundable fee of \$26 shall be paid to the department for each replacement of an I.D. card. The prescribed fee shall be submitted with the written request for a replacement I.D. card. The individual shall maintain a copy of the request in his/her possession while performing industrial radiographic operations until a replacement I.D. card is received from the department.

B. – E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 29:36 (January 2003), LR 29:691 (May 2003), LR 29:2053 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2531 (October 2005), LR 33:

### **Chapter 6. X-Rays in the Healing Arts**

#### **§603. General and Administrative Requirements**

A. – A.10.c. ...

11. Any person proposing to conduct a healing arts screening program shall not initiate such a program without prior approval of the department. When requesting such approval, that person shall submit the information outlined in LAC 33:XV.699.Appendix C to the Office of Environmental Compliance. If any information submitted to the department becomes invalid or outdated, the Office of Environmental Compliance shall be immediately notified. See the definition of *healing arts screening* in LAC 33:XV.602.

A.12. – B.3.g. ...

C. Plans Review

1. Except for dedicated mammography radiographic systems, podiatric radiographic systems, panoramic dental radiographic systems, and intraoral dental radiographic systems, prior to construction, the floor plans and equipment arrangement of all new installations, or modifications of existing installations, utilizing X-rays for diagnostic or

therapeutic purposes shall be submitted to the Office of Environmental Compliance for review and approval. The required information is specified in LAC 33:XV.699.Appendices A and B.

2. – 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:976 (October 1996), LR 23:1139 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2585 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2532 (October 2005), LR 33:

#### **§608. Therapeutic X-Ray Systems of Less Than 1 MeV**

A. – C.1.a. ...

b. the registrant or licensee shall obtain a written report of the survey from the qualified expert, and a copy of the report shall be transmitted by the registrant or licensee to the Office of Environmental Compliance within 30 calendar days of receipt of the report; and

1.c. – 3. ...

a. the spot-check procedures shall be in writing and shall have been developed by a qualified expert. A copy of the procedures shall be submitted to the Office of Environmental Compliance prior to their implementation;

3.b. – 4.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2586 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2532 (October 2005), LR 33:

### **Chapter 7. Use of Radionuclides in the Healing Arts**

#### **§704. Notifications**

A. A licensee shall provide to the Office of Environmental Compliance a copy of the board certification, the Nuclear Regulatory Commission or agreement state license, or the permit issued by a licensee of broad scope for each individual no later than 30 days after the date that the licensee permits the individual to work as an authorized user, an authorized nuclear pharmacist, or an authorized medical physicist in accordance with LAC 33:XV.703.A.2.

B. A licensee shall notify the Office of Environmental Compliance by letter no later than 30 days after:

1. – 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2101 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2587 (November 2000), LR 30:1173 (June 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2532 (October 2005), LR 33:

**§710. Report and Notification of a Dose to an Embryo/Fetus or a Nursing Child**

A. – F. ...

1. annotate a copy of the report provided to SPOC with:

1.a. – 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 30:1174 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

**§719. Requirements for Possession of Sealed Sources and Brachytherapy Sources**

A. – E.1. ...

2. file a written report with the Office of Environmental Compliance within five days of receiving the leak test results describing the equipment involved, the test results, and the action taken.

F. – O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 30:1176 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2533 (October 2005), LR 33:

**§737. Safety Precautions**

A. – A.6. ...

7. submit to the Office of Environmental Compliance an acceptable procedure to measure the thyroid burden of each individual who helps prepare or administer a dosage of iodine-131. Measurements shall be performed within three days after administering the dosage, and records shall include each thyroid burden measurement, date of measurement, the name of the individual whose thyroid burden was measured, and the initials of the individual who made the measurements. The records shall be retained for the period required by LAC 33:XV.472.B.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2105 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 30:1178 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2533 (October 2005), LR 32:813 (May 2006), LR 33:

**§761. Reports of Teletherapy Surveys, Checks, Tests, and Measurements**

A. A licensee shall furnish a copy of the records required in LAC 33:XV.758, 759, and 760, and the output from the teletherapy source expressed as rems (sieverts) per hour at 1 meter from the source as determined during the full calibration required in LAC 33:XV.756 to the Office of Environmental Compliance within 30 days following completion of the action that initiated the record requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2533 (October 2005), LR 33:

**Chapter 8. Radiation Safety Requirements for Analytical X-Ray Equipment**

**§803. Equipment Requirements**

A. Safety Device. A device which prevents the entry of any portion of an individual's body into the primary X-ray beam path or which causes the beam to be shut off upon entry into its path shall be provided on all open-beam configurations. A registrant or licensee may apply to the Office of Environmental Compliance for an exemption from the requirement of a safety device. Such application shall include:

A.1. – H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2591 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2533 (October 2005), LR 33:

**Chapter 9. Radiation Safety Requirements for Particle Accelerators**

**Subchapter B. Radiation Safety Requirements for the Use of Particle Accelerators**

**§907. Shielding and Safety Design Requirements**

A. A qualified expert, specifically accepted in writing by the department, shall be consulted in the design of a particle accelerator installation and shall be called upon to perform a radiation survey when the accelerator is first capable of producing radiation. A copy of the survey shall be submitted to the Office of Environmental Compliance.

B. Plans for construction of new accelerator installations shall be submitted to the Office of Environmental Compliance for approval prior to commencement of construction.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2592 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2533 (October 2005), LR 33:

**§911. Radiation Monitoring Requirements**

A. ...

B. A radiation protection survey shall be performed, documented, and submitted to the Office of Environmental Compliance by a qualified expert specifically approved in writing by the department when changes have been made in shielding, operation, equipment, or occupancy of adjacent areas.

C. – H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2592 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2533 (October 2005), LR 33:

#### **Chapter 10. Notices, Instructions, and Reports to Workers; Inspections**

##### **§1016. Requests by Workers for Inspections**

A. Any worker or representative of workers believing that a violation of the act, LAC 33:Part XV, or license conditions exists or has occurred in work under a license or registration with regard to radiological working conditions in which the worker is engaged may request an inspection by giving notice of the alleged violation to the Office of Environmental Compliance. Any such notice shall be in writing, shall set forth the specific grounds for the notice, and shall be signed by the worker or representative of the workers. A copy shall be provided to the licensee or registrant by the department no later than at the time of inspection except that, upon the request of the worker giving such notice, such worker's name and the names of individuals referred to therein shall not appear in such copy or on any record published, released, or made available by the department, except for good cause shown.

B. – C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2593 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2534 (October 2005), LR 33:

##### **§1017. Inspections Not Warranted: Informal Review**

A. Notification to Complainant and Informal Review

1. If the department determines, with respect to a complaint filed under LAC 33:XV.1016, that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists, is occurring, or has occurred, the department shall notify the complainant in writing of such determination. The complainant may obtain review of such determination by submitting a written statement of position with the administrative authority, who will provide the licensee or registrant with a copy of such statement by certified mail, return receipt requested, excluding, at the request of the complainant, the name of the complainant. The licensee or registrant may submit an opposing written statement of position with the Office of Environmental Compliance, who will provide the complainant with a copy of such statement by certified mail, return receipt requested.

A.2. – B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2594

(November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2534 (October 2005), LR 33:

#### **Chapter 11. Radiation Safety Requirements for Radioactive Mineral Tailings and Industrial Byproduct Piles**

##### **§1103. Sale or Transfer of the Site**

A. The Office of Environmental Compliance shall be given written notice 30 days in advance of any contemplated transfer of right, title or interest in the site by deed, lease or other conveyance. The written notice shall contain the name and address of the proposed purchaser or transferee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2594 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2534 (October 2005), LR 33:

##### **§1104. Abandonment of the Site**

Prior to abandonment of the site, the requirements of this Section shall be fulfilled.

A. – C. ...

D. Detailed plans for compliance with Subsections A, B, and C of this Section shall be submitted to the Office of Environmental Compliance for review and approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2594 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2534 (October 2005), LR 33:

#### **Chapter 13. Licensing Requirements for Land Disposal of Radioactive Waste**

##### **Subchapter A. General Provisions**

##### **§1303. License Required**

A. ...

B. Each person shall file an application with the Office of Environmental Compliance pursuant to LAC 33:XV.324 of these regulations and obtain a license as provided in this Chapter before commencement of construction of a land disposal facility. Failure to comply with this requirement may be grounds for denial of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2595 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2534 (October 2005), LR 33:

##### **§1309. Institutional Information**

The institutional information submitted to the Office of Environmental Compliance by the applicant shall include:

A. – B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2595 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2535 (October 2005), LR 33:



**§1314. Contents of Application for Site Closure and Stabilization**

A. Prior to final closure of the disposal site, or as otherwise directed by the department, the applicant shall submit an application to the Office of Environmental Compliance to amend the license for closure. This closure application shall include a final revision and specific details of the disposal site closure plan included as part of the license application submitted under LAC 33:XV.1307.G that includes each of the following:

A.1. – B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2596 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2535 (October 2005), LR 33:

**Subchapter C. Technical Requirements for Land Disposal Facilities**

**§1325. Land Disposal Facility Operation and Disposal Site Closure**

A. – A.11. ...

12. Proposals for disposal of waste that is not generally acceptable for near-surface disposal because the waste form and disposal methods must be different and, in general, more stringent than those specified for Class C waste, may be submitted to the Office of Environmental Compliance for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2596 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2535 (October 2005), LR 33:

**Subchapter D. Financial Assurances**

**§1331. Funding for Disposal Site Closure and Stabilization**

A. – B. ...

C. The licensee's financial or surety arrangement shall be submitted annually for review by the Office of Environmental Compliance to ensure that sufficient funds will be available for completion of the closure plan.

D. ...

E. The financial or surety arrangement shall be written for a specified period of time and shall be automatically renewed unless the person who issues the surety notified the Office of Environmental Compliance, the beneficiary [the site owner], and the principal [the licensee] not less than 90 days prior to the renewal date of its intention not to renew. In such a situation, the licensee must submit a replacement surety within 30 days after notification of cancellation. If the licensee fails to provide a replacement surety acceptable to the department, the beneficiary may collect on the original surety.

F. – H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental

Assessment, Environmental Planning Division, LR 26:2597 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2535 (October 2005), LR 33:

**§1332. Financial Assurances for Institutional Controls**

A. Prior to the issuance of the license, the applicant shall provide for Office of Environmental Compliance approval a binding arrangement between the applicant and the disposal site owner that ensures that sufficient funds will be available to cover the costs of monitoring and any required maintenance during the institutional control period. The binding arrangement shall be reviewed annually by the department to ensure that changes in inflation, technology, and disposal facility operations are reflected in the arrangements.

B. Subsequent changes to the binding arrangement specified in Subsection A of this Section relevant to institutional control shall be submitted to the Office of Environmental Compliance for prior approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2597 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2535 (October 2005), LR 33:

**Subchapter E. Records, Reports, Tests, and Inspections**

**§1333. Maintenance of Records, Reports, and Transfers**

A. – E. ...

F. Each licensee authorized to dispose of waste received from other persons shall file a copy of its financial report or a certified financial statement annually with the Office of Environmental Compliance in order to update the information base for determining financial qualifications.

G. Each licensee authorized to dispose of waste received from other persons, in accordance with this Chapter, shall submit annual reports to the Office of Environmental Compliance. Reports shall be submitted by the end of the first calendar quarter of each year for the preceding year.

G.1. – J.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2111 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2598 (November 2000), LR 27:1238 (August 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2535 (October 2005), LR 33:

**Chapter 14. Regulation and Licensing of Naturally Occurring Radioactive Material (NORM)**

**§1407. Surveys**

A. – B. ...

C. Upon completion of survey(s) of equipment and facilities that verify that NORM regulated by this Chapter is not present, an individual may submit documentation to the Office of Environmental Compliance indicating that the equipment and facilities are exempt from the requirements of this Chapter pursuant to LAC 33:XV.1404.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 21:26 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2599 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2536 (October 2005), LR 33:

#### **§1408. General License**

A. ...

1. Persons subject to the general license shall notify the Office of Environmental Compliance by filing the Notification of NORM Form (Form RPD-36) with the department.

2. A confirmatory survey showing the presence of NORM in excess of exempt levels provided in LAC 33:XV.1404 shall be submitted to the Office of Environmental Compliance.

3. Each general licensee performing on-site maintenance on contaminated facilities, sites, or equipment or the excavation of land shall establish and submit to the Office of Environmental Compliance for approval written procedures as outlined in LAC 33:XV.1499. Appendix B to ensure worker protection and for the survey (or screening) of sites and equipment.

4. ...

5. Each general licensee shall establish and submit to the Office of Environmental Compliance for approval written procedures for the survey (or screening) of sites and equipment to ensure that NORM is not released for unrestricted use except under the provisions of LAC 33:XV.1417.

6. – 6.a. ...

b. To store NORM waste in a container for up to 365 days from generation, a general licensee must first submit a written NORM waste management plan to the Office of Environmental Compliance and receive authorization from the department. The general licensee may store NORM waste in containers up to 365 days from generation under the written NORM waste management plan while waiting for department determination.

A.7. – E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 21:26 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2599 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2536 (October 2005), LR 33:

#### **§1410. General Licenses: Pipe Yards, Storage Yards, or Production Equipment Yards**

A. – A.1. ...

2. a program is developed and submitted to the Office of Environmental Compliance for approval to screen incoming shipments to ensure that the 50-microrentgens-per-hour limit is not exceeded for individual pieces of tubular goods or equipment;

3. a program is developed and submitted to the Office of Environmental Compliance for approval to ensure worker protection, as outlined in LAC 33:XV.1499. Appendix B;

4. a program is developed and submitted to the Office of Environmental Compliance for approval to control soil contamination;

5. a program is developed and submitted to the Office of Environmental Compliance for approval to prevent release of NORM contamination beyond the site boundary;

6. a program is developed and submitted to the Office of Environmental Compliance for approval for surveying and decontamination to ensure that soil contamination is not allowed to exceed 200 picocuries per gram of radium-226 or radium-228 or an exposure rate of 50 microrentgens per hour at one meter from the soil at any time;

7. a plan for cleanup is submitted to the Office of Environmental Compliance within 180 days of the discovery of NORM contaminated soil in excess of the limit in Paragraph A.6 of this Section. The plan shall include a schedule for cleanup that is to be approved by the department. The general licensee may include in this plan an application to the department for a one time authorization to perform this cleanup or use a specific licensee; and

A.8. – B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 15:736 (September 1989), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:605 (June 1992), LR 21:26 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2599 (November 2000), LR 30:1189 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2536 (October 2005), LR 33:

#### **§1417. Release for Unrestricted Use**

A. – A.3. ...

B. If closure activities involve construction with a subsurface impact to a depth greater than three feet, prior approval by the Office of Environmental Compliance must be attached as part of the application addressing the certification of the groundwater quality. All pits, ponds, and lagoons must comply with departmental regulations and/or policies dealing with groundwater quality.

C. Unless otherwise directed in writing by the department, in order to release property for unrestricted use, a licensee shall submit a plan for the decontamination to the Office of Environmental Compliance for approval. Upon approval, the licensee shall implement the plan in accordance with such approval.

C.1. – E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:607 (June 1992), amended LR 21:28 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2600 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2537 (October 2005), LR 33:

#### **§1418. NORM Manifests**

A. – C.6. ...

7. The licensee receiving a shipment is required to report to the Office of Environmental Compliance and to the licensee initiating the shipment any irregularities between the NORM actually received by the designated facility and the NORM described on the manifest, or any other irregularities, within 15 days. If the designated facility or receiving licensee is outside the state of Louisiana, the

generating or originating licensee must report the irregularities to the department.

D. – E.3. ...

a. notify the Office of Environmental Compliance in writing within seven days;

b. ...

c. report the results of the investigation to the Office of Environmental Compliance.

F. – G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:608 (June 1992), amended LR 21:28 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2600 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2537 (October 2005), LR 33:

#### **§1420. Financial Security Requirements for NORM Treasers or Storers**

A. – B. ...

C. On the effective date of these rules, current licenses in effect may continue, provided that the required security arrangements are submitted to the Office of Environmental Compliance within 120 days.

D. – E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:609 (June 1992), amended LR 21:30 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2601 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2537 (October 2005), LR 33:

#### **Chapter 15. Transportation of Radioactive Material**

##### **§1515. Reports**

A. The licensee shall report to the Office of Environmental Compliance within 30 days:

1. – 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1269 (June 2000), LR 26:2602 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2537 (October 2005), LR 33:

##### **§1516. Advance Notification of Transport of Nuclear Waste**

A. – C.6. ...

D. The notification required by LAC 33:XV.1516.A shall be made in writing to the office of each appropriate governor or governor's designee and to the Office of Environmental Compliance. A notification delivered by mail must be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. A notification delivered by messenger must reach the office of the governor, or governor's designee, at least four days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. A copy of the notification shall be retained by the licensee for three years.

E. The licensee shall notify each appropriate governor, or governor's designee, and the Office of Environmental Compliance of any changes to schedule information provided in accordance with Subsection A of this Section. Such notification shall be by telephone to a responsible individual in the office of the governor, or governor's designee, of the appropriate state or states. The licensee shall maintain for three years a record of the name of the individual contacted.

F. Each licensee who cancels a nuclear waste shipment, for which advance notification has been sent, shall send a cancellation notice to the governor, or governor's designee, of each appropriate state and to the Office of Environmental Compliance. A copy of the notice shall be retained by the licensee for three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1269 (June 2000), LR 26:2602 (November 2000), amended by the Office of Environmental Assessment, LR 30:2029 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2537 (October 2005), LR 33:

#### **Chapter 17. Licensing and Radiation Safety Requirements for Irradiators**

##### **§1707. Start of Construction**

A. An applicant for a license shall not begin construction of a new irradiator prior to the submission to the Office of Environmental Compliance of both an application for a license for the irradiator and any fee required by the applicable state requirement or statute. As used in this Chapter, the term *construction* includes the construction of any portion of the permanent irradiator structure on the site but does not include engineering and design work, purchase of a site, site surveys or soil testing, site preparation, site excavation, construction of warehouse or auxiliary structures, and other similar tasks. Any activities undertaken prior to the issuance of a license are entirely at the risk of the applicant and have no bearing on the issuance of a license with respect to the requirements of the appropriate state statute, rules, regulations, and orders issued under the appropriate state statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2113 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2603 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2538 (October 2005), LR 33:

##### **§1711. Request for Written Statements**

A. Each license is issued with the condition that the licensee shall, at any time before expiration of the license and upon the department's request, submit a written statement to the Office of Environmental Compliance to enable the department to determine whether the license should be modified, suspended, or revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2113 (November

1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2603 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2538 (October 2005), LR 33:

#### **§1755. Records and Retention Periods**

A. – A.2. ...

3. a copy of the current operating and emergency procedures required by LAC 33:XV.1737 until superseded or the Office of Environmental Compliance terminates the license. Records of the radiation safety officer's review and approval of changes in procedures, as required by LAC 33:XV.1737.C.3, shall be retained for three years from the date of the change;

A.4. – B. ...

1. a copy of the license, the license conditions, documents incorporated into the license by reference, and amendments thereto until superseded by new documents or until the Office of Environmental Compliance terminates the license for documents not superseded;

2. personnel dosimeter evaluations required by LAC 33:XV.1739 until the Office of Environmental Compliance terminates the license;

3. – 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2120 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2604 (November 2000), LR 29:1471 (August 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2538 (October 2005), LR 33:

### **Chapter 20. Radiation Safety Requirements for Wireline Service Operations and Subsurface Tracer Studies**

#### **§2014. Leak Testing of Sealed Sources**

A. ...

B. Method of Testing. Tests for leakage shall be performed only by persons specifically authorized to perform such tests by the Office of Environmental Compliance, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state. The wipe of a sealed source must be performed using a leak test kit or method approved by the department, the U.S. Nuclear Regulatory Commission, or an agreement state. The test sample shall be taken from the surface of the source, source holder, or from the surface of the device in which the source is stored or mounted and on which one might expect contamination to accumulate. The test sample shall be analyzed for radioactive contamination by a person approved by the department, the U.S. Nuclear Regulatory Commission, or an agreement state to perform the analysis. The analysis shall be capable of detecting the presence of 0.005 microcurie (185 Bq) of radioactive material on the test sample.

C. – E.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2604 (November 2000), LR 29:1471 (August 2003), LR 30:1667

(August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2538 (October 2005), LR 33:

#### **§2017. Design, Performance, and Certification Criteria for Sealed Sources Used in Downhole Operations**

A. Each sealed source, except those containing radioactive material in gaseous form, used in downhole operations and manufactured after October 20, 1988, shall be certified by the manufacturer, or other testing organization acceptable to the Office of Environmental Compliance, to meet the following minimum criteria:

A.1. – B. ...

C. Each sealed source, except those containing radioactive material in gaseous form, used in downhole operations after October 20, 1988, shall be certified by the manufacturer, or other testing organization acceptable to the Office of Environmental Compliance, as meeting the sealed source performance requirements for oil well-logging as contained in the American National Standard N542, "Sealed Radioactive Sources, Classification," in effect on October 20, 1987.

D. Certification documents shall be kept and maintained for inspection by the Office of Environmental Compliance for a period of two years after source disposal. If the source is abandoned downhole, the certification documents shall be maintained until the Office of Environmental Compliance authorizes disposition in writing.

E. – G.2. ...

H. Use of a Sealed Source in a Well Without a Surface Casing. The licensee may use a sealed source in a well without a surface casing for protecting fresh water aquifers only if the licensee follows a procedure for reducing the probability of the source becoming lodged in the well. The procedure must be approved by the Office of Environmental Compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2605 (November 2000), LR 29:1472 (August 2003), amended by the Office of Environmental Assessment, LR 31:55 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2538 (October 2005), LR 33:

### **Subchapter A. Requirements for Personnel Safety**

#### **§2022. Personnel Monitoring**

A. ...

B. Personnel monitoring records shall be maintained for inspection until the Office of Environmental Compliance authorizes disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2605 (November 2000), LR 29:1472 (August 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2539 (October 2005), LR 33:

## Chapter 25. Fee Schedule

### §2506. Reciprocal Agreements—Licenses and Registrants

A. Persons operating within Louisiana under the provisions of LAC 33:XV.212 or LAC 33:XV.390 shall submit to the Office of Environmental Compliance the annual fee of the applicable category before the first entry into the state. The fee will allow reciprocal recognition of the license or registration for one year from the date of receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, LR 10:1013 (December 1984), amended by the Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:718 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2607 (November 2000), LR 29:1816 (September 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2539 (October 2005), LR 33:

### §2507. Reimbursements

A. One-half of the annual fee will be reimbursed to the licensee or registrant upon receipt of a written request to terminate the license or registration, provided that the request has been received by the Office of Environmental Compliance within 180 days after the annual fee due date, and the fee has not been delinquent. Requests for termination of the license or registration received after 180 days of the annual fee due date will not entitle the licensee or registrant to reimbursement of any portion of the annual fee. No interest, legal or otherwise, will be paid on the funds withheld prior to reimbursement.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, LR 10:1013 (December 1984), amended by the Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:718 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2607 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2539 (October 2005), LR 33:

### §2508. Determination of Fee

A. – C. ...

D. Electronic products that are in storage are subject to the same initial application fee and annual maintenance fee unless the X-ray unit is rendered permanently incapable of producing radiation and this fact is documented in writing to the Office of Environmental Compliance.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, LR 10:1013 (December 1984), amended by the Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:718 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1441 (July 2000), LR 26:2607 (November 2000), amended by the Office of the

Secretary, Legal Affairs Division, LR 31:2539 (October 2005), LR 33:

A public hearing will be held on August 28, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by MM002. Such comments must be received no later than September 4, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to [judith.schuerman@la.gov](mailto:judith.schuerman@la.gov). Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of MM002. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM  
Executive Counsel

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Departmental Designations

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There will be no significant implementation costs or savings to state or local governmental units as a result of the proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no estimated effect on revenue collections of state or local governmental units resulting from the proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no significant costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no estimated effect on competition or employment as a result of the proposed rule.

Herman Robinson, CPM  
Executive Counsel  
0707#017

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Louisiana Lottery Corporation**

Raffle Lottery Game (LAC 42:XV.103 and 105)

The Louisiana Lottery Corporation in compliance with, and under authority of R.S. 49:950 et seq., and R.S. 47:9001 et seq., hereby gives notice of its intent to amend the rules and regulations pertaining to the operations of on-line lottery games, in particular LAC 42:XV.103 and 105, to allow the Louisiana Lottery Corporation to offer the following on-line lottery game: "Raffle Lottery Game."

**Title 42  
GAMING**

**Part XV. Lottery**

**Chapter 1. On Line Lottery Games**

**§103. Definitions**

A. ...

\* \* \*

*Raffle Lottery Game*—a lottery game in which a maximum designated number of chances or plays will be offered, and the winning chances or plays will be selected from those chances or plays actually sold.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, amended October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, amended October 21, 1994 and promulgated in *The Advocate*, October 28, 1994, repromulgated LR 23:64 (January 1997), amended LR 33:

**§105. General Provisions**

A. - A.5. ...

6. Raffle Lottery Game. A series of on-line raffle lottery games which will commence at the discretion of the president, and will continue until the president publicly announces a suspension or termination date. A limited number of tickets or chances, each unique from all others, will be offered for the opportunity to win one of a number of predetermined and announced prizes.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, amended October 21, 1994, promulgated in *The Advocate*, October 28, 1994, repromulgated LR 23:63 (January 1997), amended LR 24:1762 (September 1998), LR 33:

**Family Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Lottery Corporation, through its president, has considered the potential family impact of the proposed amendments to LAC 42:XV.103 and 105.

It is accordingly concluded that the amendments to LAC 42:XV.130 and 105 would appear to have no impact on any of the following:

- 1. the effect on stability of the family;

- 2. the effect on the authority and rights of parents regarding the education and supervision of their children;
- 3. the effect on the functioning of the family;
- 4. the effect on family earnings and family budget;
- 5. the effect on the behavior and personal responsibility of children; and
- 6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than August 23, 2007, at 9 a.m. to John Carruth, Louisiana Lottery Corporation, P.O. Box 90008, Baton Rouge, LA 70879.

A public hearing will be held on August 24, 2007, at 10 a.m., at the offices of the Louisiana Lottery Corporation, 555 Laurel Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

Rose J. Hudson  
President

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Raffle Lottery Game**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

To conduct the drawing for the raffle style game, a new drawing machine is required. The estimated cost in FY 08 for this equipment is \$50,000. All other costs including prize expenses, retailer commissions, and online vendor commissions are expenses that fluctuate directly with the volume of sales. These expenses represent approximately 60% of sales or \$1.8 million annually, based upon a projected annual sale of 300,000 tickets for \$10 each, or \$3 million in total projected annual revenue.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of local governmental units. The raffle game being proposed is projected to generate \$3 million annually. Based on the required minimum return to the Lottery Proceeds Fund of 35% of gross proceeds, the calculated increase to the Lottery Proceeds Fund is \$1,050,000 annually.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Retailers earn 5 percent commission on the sale of lottery products, or an estimated \$150,000 annually based on projected sales. Lottery players win prizes totaling approximately 50% of total sales, or approximately \$1.5 million annually.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no anticipated significant effect on competition and employment.

Rose J. Hudson  
President  
0707#046

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Board of Architectural Examiners**

Continuing Education (LAC 46:I.1315)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners ("board") gives notice that rule making procedures have been initiated for the amendment of LAC 46:I.1315 pertaining to acceptable educational activities for an architect satisfying his or her continuing educational requirements. The existing Rule sets forth an illustrative, non-exclusive list of acceptable educational activities. The proposed Rule adds service upon NCARB committees dealing with HSW to that list.

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part I. Architects**

**Chapter 13. Administration**

**§1315. Continuing Education**

- A. - D.5. ...
- E. Acceptable Educational Activities
  - 1. - 2. ...
  - 3. Acceptable continuing educational activities in HSW include the following:
    - a. - e. ...
    - f. authoring a published paper, article or book;
    - g. successfully completing college or university sponsored courses; and
    - h. service upon NCARB committees dealing with HSW.

E.4 - I.2....

AUTHORITY NOTE: Promulgated and amended in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:565 (April 2003), amended LR 33:

Interested persons may submit written comments on this proposed Rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 9625 Fenway Ave., Suite B, Baton Rouge, LA 70809.

Mary "Teeny" Simmons  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Continuing Education**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
 

There are no estimated implementation costs (savings) to state or local governmental units associated with this proposed rule amendment.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local governmental units associated with this proposed rule amendment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs and/or economic benefits to directly affected persons or non-governmental groups associated with this proposed rule amendment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment associated with this proposed rule amendment.

Mary "Teeny" Simmons  
Executive Director  
0707#060

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Office of Group Benefits**

PPO Plan of Benefits—Physician Assistants and Registered Nurse Practitioners (LAC 32:III.301)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan of Benefits with respect to payment for services rendered by physician assistants and registered nurse practitioners to allow direct billing and to establish the maximum benefit amount.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective on the first of the month next following promulgation of the final Rule.

**Title 32**

**EMPLOYEE BENEFITS**

**Part III. Preferred Provider Organization (PPO) Plan of Benefits**

**Chapter 3. Medical Benefits**

**§301. Eligible Expenses**

A. - A.1. - 26. ...

27. Services rendered by the following:

a. perfusionists and registered nurse assistants assisting in the operating room, when billed by the supervising physician;

b. physician assistants and registered nurse practitioners, provided that benefits will not exceed 70 percent of the amount payable for the same service rendered by a physician;

28. - 35.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees, State Employees Group Benefits

Program, LR 25:1830 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002), LR 29:339, 343 (March 2003), LR 30:1192 (June 2004), LR 31:441 (February 2005), LR 32:1888, 1898 (October 2006), LR 33:

**Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows: The Rule will afford greater access to health care services provided by physician assistants and registered nurse practitioners while potentially reducing overall costs for health care services.

Interested persons may present their views, in writing, to Tommy D. Teague, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Monday, August 20, 2007.

Tommy D. Teague  
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: PPO Plan of Benefits—Physician  
Assistants and Registered Nurse Practitioners**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is estimated that this benefit modification could save the PPO plan of OGB up to \$195,613 annually if 5% of office visits currently handled by a physician were handled by a Physician Assistant/Nurse Practitioner, but could cost OGB up to \$978,063 annually if this benefit modification results in a 10% increase in utilization due to greater access to health care in areas where there are current physician shortages. Costs could (decrease)/increase (\$130,409)/\$652,042 for FY 07/08 (8 months), (\$211,262)/\$1,056,308 for FY 08/09 and (\$228,163)/\$1,140,813 for FY 09/10 (an 8% trend factor has been applied to FY 08/09 and FY 09/10. Although the (decrease)/increase of (\$130,409)/\$652,042 in FY 07/08 for the cost of this benefit to OGB is paid from Agency-Self Generated Funds, 66% of the impact (\$86,852)/\$434,260 is on the State General Fund for employer contribution of premiums paid to OGB. It is anticipated \$3,000 in expenses will be incurred with the publishing of this rule in FY 06/07.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of State or Local Governmental units should not be affected.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

This rule will result in PPO members (approximately 78,000) having services rendered by Physician Assistants and Registered Nurse Practitioners as a covered benefit, provided that benefits do not exceed seventy percent (70%) of the amount payable for the same service rendered by a Physician. There is no direct premium increase for members as a result of this additional benefit, in itself for FY 07/08, but increased costs will be considered for premium rates that are effective July 1, 2008 and thereafter.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

Competition and employment will not be affected.

Tommy D. Teague  
Chief Executive Officer  
0707#042

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Racing Commission**

**Timing of Entering Next Claiming Race (LAC 35:XI.9905)**

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 35:XI.9905, "Timing of Entering Next Claiming Race," to be consistent with claiming eligibility prices with the majority of the racing jurisdictions in the nation.

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

**Title 35**

**HORSE RACING**

**Part XI. Claiming Rules and Engagements**

**Chapter 99. Claiming Rule**

**§9905. Timing of Entering Next Claiming Race**

A. Except as otherwise provided herein, a claimed horse shall not enter in optional or claiming races for 30 days after being claimed in a race in which the determining eligibility price is less than the price at which the horse was claimed. The day claimed shall not count, but the following calendar day shall be the first day and the horse shall be entitled to enter whenever necessary so the horse may start on the thirty-first day following the claim for any claiming price. This provision shall not apply to starter handicaps in which the weight to be carried is assigned by the handicapper. A similar rule in other states will be recognized and enforced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 30:1476 (July 2004), amended LR 33:

The domicile office of the Louisiana State Racing Commission is open from 8:30 a.m. to 5 p.m., and interested parties may contact Charles A. Gardiner III, Executive Director, or Larry Munster, Assistant Executive Director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule through August 13, 2007, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Timing of Entering Next Claiming Race**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no anticipated costs or savings to state or local governmental units associated with this rule, other than one-time costs directly associated with its publication.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The rule may have a positive but insignificant effect on state and local revenue collections. If the rule change



results in more claimed horses, there would be a resulting increase in sales tax collections since the price of the claim plus applicable sales taxes are assessed on every claim.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The rule change could have a positive economic effect on the racing industry should the change attract new horse owners. By reducing the restrictions on claimed horses, there may be more incentive to buy horses via the claims process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is a positive anticipated effect on competition and employment as a result of this rule change. By attracting new owners via the claims process, those owners would need to hire employees and staff to operate their barns and stalls and properly maintain the horses that they own.

Charles A. Gardiner III  
Executive Director  
0707#055

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Pain Management Clinics—Licensing Standards  
(LAC 48:I.Chapter 78)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 48:I.Chapter 78 as authorized by R.S. 40:2198.11-13. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Act 488 of the 2005 Regular Session of the Louisiana Legislature authorized the Department of Health and Hospitals to promulgate Rules establishing the licensing standards for pain management clinics, including operational and staffing requirements, licensing procedures and reimbursement methodology. Pain management clinics are public or private facilities which primarily engage in the treatment of pain by prescribing narcotic medications. In compliance with the directives of Act 488, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt provisions establishing the licensing standards for pain management clinics.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule will have a positive impact on family functioning and stability as it will assure that the clinics providing care for the management of chronic pain will have uniform licensing regulations governing operations which enhance the health and safety of patients.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 78. Pain Management Clinics**

**Subchapter A. General Provisions**

**§7801. Definitions**

*Addiction Facility*—a facility that is licensed for the treatment of addiction to, or abuse of illicit drugs or alcohol, or both.

*Board*—the Louisiana State Board of Medical Examiners.

*Chronic Pain*—pain which persists beyond the usual course of a disease, beyond the expected time for healing from bodily trauma, or pain associated with a long-term incurable or intractable medical illness or disease.

*Controlled Substance*—any substance defined, enumerated or included in federal or state statute or regulations 21 C.F.R. §1308.11-15 or R.S.40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations and statutes.

*Deficient Practice*—a finding of non-compliance with a licensing regulation.

*Department*—the Department of Health and Hospitals.

*Health Standards Section*—the section within the Department of Health and Hospitals with responsibility for licensing pain management clinics.

*Intractable Pain*—a chronic pain state in which the cause of the pain cannot be eliminated or successfully treated without the use of controlled substance therapy and, which in the generally accepted course of medical practice, no cure of the cause of pain is possible or no cure has been achieved after reasonable efforts have been attempted and documented in the patient's medical record.

*Noncancer-Related Pain*—pain which is not directly related to symptomatic cancer.

*Non-Malignant*—synonymous with noncancer-related pain.

*Operated By*—actively engaged in the care of patients at a clinic.

*Pain Management Clinic or "Clinic"*—a publicly or privately owned facility which primarily engages in the treatment of pain by prescribing narcotic medications.

*Pain Specialist*—a physician, licensed in Louisiana, with a certification in the subspecialty of pain management by a member board of the American Boards of Medical Specialties.

*Physician*—an individual who:

1. possesses a current, unrestricted license from the board to practice medicine in Louisiana;
2. during the course of his practice has not been denied the privilege of prescribing, dispensing, administering, supplying, or selling any controlled dangerous substance; and
3. during the course of his practice has not had board action taken against his medical license as a result of dependency on drugs or alcohol.

*Primarily Engaged*—the majority of patients, 51 percent or more of the patients seen on any day a clinic is in operation, are issued a narcotic prescription for the treatment

of chronic non-malignant pain. A physician who in the course of his practice, treats patients with chronic pain, shall not be considered primarily engaged in the treatment of chronic non-malignant pain by prescribing narcotic medications provided that the physician:

1. treats patients within their areas of specialty and who utilizes other treatment modalities in conjunction with narcotic medications;

2. is certified by a member board of the American Board of Medical Specialties, or is eligible for certification based upon his completion of an ACGME (Accreditation Council for Graduate Medical Education) certified residency training program; and

3. currently holds medical staff privileges that are in good standing at a hospital in this state.

*Urgent Care Facility*—a medical clinic which offers primary and acute health services to the public during stated hours of operation and which must accommodate walk-in patients seeking acute health services. For purposes of this definition, the treatment of chronic pain patients is not considered acute health services.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40.2198.11-13.

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

#### **§7803. Ownership**

A. Except as specified in §7803.B, each clinic shall be 100 percent owned and operated by a physician certified in the subspecialty of pain management by a member board of the American Boards of Medical Specialties.

B. A clinic in operation on or before June 15, 2005, is exempt from §7803.A if all of the following requirements are met.

1. The clinic is not owned, either in whole or in part, by independent contract, agreement, partnership, or joint venture with a physician who during the course of his practice has:

a. been denied the privilege of prescribing, dispensing, administering, supplying, or selling any controlled dangerous substance; and

b. had board action taken against his medical license as a result of dependency on drugs or alcohol.

2. The clinic is not owned, either in whole or in part, by an individual who has been convicted of, pled guilty or nolo contendere to a felony.

3. The clinic is not owned, either in whole or in part, by an individual who has been convicted of, pled guilty or nolo contendere to a misdemeanor, the facts of which relate to the use, distribution, or illegal prescription of any controlled substance.

4. The clinic shall operate as an urgent care facility offering primary or acute health services, in addition to caring for patients with chronic pain, and shall have held itself out to the public as an urgent care facility.

C. Any change of ownership (CHOW) shall be reported in writing to the Health Standards Section within five working days of the transfer of ownership by any lawful means. The license of a clinic is not transferable or assignable between individuals, clinics or both. A license cannot be sold.

1. The new owner shall submit all documents required for a new license including the licensing fee. Once all

application requirements are completed and approved by the department, a new license shall be issued to the new owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

#### **Subchapter B. Licensing Procedures**

##### **§7811. General Provisions**

A. It shall be unlawful to operate a clinic without obtaining a license issued by the department. The department is the only licensing agency for pain management clinics in the state of Louisiana.

B. A clinic shall renew its license annually. A renewal application and licensing fee shall be submitted at least 30 days before the expiration of the current license. Failure to do so shall be deemed to be a voluntary termination and expiration of the facility's license. The license shall be surrendered to the department within 10 days, and the facility shall immediately cease providing services.

C. A license shall be valid only for the clinic to which it is issued and only for that specific geographic address. A license shall not be subject to sale, assignment, or other transfer, voluntary or involuntary. The license shall be conspicuously posted in the clinic.

D. Any change regarding the clinic's name, geographical or mailing address, phone number, or key administrative staff or any combination thereof, shall be reported in writing to the Health Standards Section within five working days of the change.

1. Any name change requires a change in the license and shall be accompanied by a \$25 fee.

E. A separately licensed clinic shall not use a name which is substantially the same as the name of another clinic licensed by the department.

F. Any request for a duplicate license shall be accompanied by a \$5 fee.

G. A clinic intending to have controlled dangerous medications on the premises shall make application for a Controlled Dangerous Substance (CDS) License, and shall comply with all federal and state regulations regarding procurement, maintenance and disposition of such medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

##### **§7813. Initial Application Process**

A. An application packet for licensing as a pain management clinic shall be obtained from the Department of Health and Hospitals. A completed application packet for a clinic shall be submitted to and approved by the department prior to an applicant providing services.

B. An initial applicant shall submit a completed application packet including:

1. the current non-refundable licensing fee pursuant to R. S. 40:2198.13;

2. an approval for occupancy from the Office of the State Fire Marshal;

3. a recommendation for licensure from the Office of Public Health (OPH) based on an OPH inspection;

4. a zoning approval from local governmental authorities;

5. a criminal background check on all owners;

6. verification of the physician owner's certification in the subspecialty of pain management unless said owner meets the exemption at §7403(B); and

7. proof of operation as an urgent care facility if the pain management clinic was in operation on or before June 15, 2005:

a. this proof shall be an occupational license or certificate of operation issued by local governmental authorities, in addition to verifying information that indicates the facility held itself out to the public as an urgent care facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

#### §7815. Licensing Surveys

A. After approval of the initial application by the department, a clinic shall undergo an initial licensing survey to determine that the clinic is in compliance with all licensing regulations. The clinic will receive advance notification of this survey.

1. No patient shall be provided service until the initial licensing survey has been performed and the clinic found to be in compliance.

2. In the event the initial licensing survey finds that a clinic is not in compliance with regulations of this Chapter, the department shall deny the initial license.

B. After the initial licensing survey, the department shall conduct a licensing survey at regular intervals as it deems necessary to determine compliance with licensing regulations. These surveys shall be unannounced to the clinic.

C. The department may conduct a complaint investigation for any complaint received against a clinic. A complaint survey shall be unannounced to the clinic.

D. A follow-up survey shall be done following any licensing survey or any complaint survey to ensure correction of a deficient practice cited on the previous survey. Such surveys shall be unannounced to the clinic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

#### §7817. Issuance of Licenses

A. The department shall have authority to issue two types of licenses: a full license or provisional license.

B. A full license may be issued only to applicants that are in compliance with all applicable federal, state and local laws and regulations. This license shall be valid until the expiration date shown on the license, unless the license has been revoked, terminated, or suspended.

C. A provisional license may be issued to those existing licensed clinics that do not meet the criteria for full licensure. This license shall be valid for no more than six months, unless the license has been revoked, terminated, or suspended.

1. A provisional license may be issued by the department for one of the following reasons, including but not limited to:

a. the clinic has more than five deficient practices during any one survey;

b. the clinic has more than three valid complaints in a one-year period;

c. there is a documented incident of placing a patient at risk;

d. the clinic fails to correct deficient practices within 60 days of being cited or at the time of the follow-up survey, whichever occurs first.

2. A clinic with a provisional license may be issued a full license if at the follow-up survey the clinic has corrected the deficient practice. A full license will be issued for the remainder of the year until the clinic's license anniversary date.

3. The department may re-issue a provisional license or initiate a license revocation of a provisional license when the clinic fails to correct deficient practice within 60 days of being cited or at the time of the follow-up survey, whichever occurs first.

4. The department may also issue a provisional license if there is documented evidence that any representative of the clinic has (without the knowledge or consent of clinic's owner, medical director and/or administrator) bribed, harassed, offered, paid for or received something of economic value for the referral of an individual to use the services of a particular clinic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

#### §7819. License Denial, Revocation or Non-Renewal

A. Pursuant to R.S. 49:950, the Administrative Procedures Act, the department may:

1. deny an application for a license;

2. refuse to renew a license; or

3. revoke a license.

B. A clinic license may not be renewed or may be revoked for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with pain management clinic licensing regulations;

2. failure to uphold patient rights whereby deficient practice may result in harm, injury or death of a patient;

3. failure of the clinic to protect a patient from a harmful act by a clinic employee or other patient(s) on the premises, including but not limited to:

a. an action posing a threat to patient or public health and safety;

b. coercion;

c. threat or intimidation;

d. harassment;

e. abuse; or

f. neglect;

4. failure to notify proper authorities of all suspected cases of neglect, criminal activity, mental or physical abuse, or any combination thereof;

5. failure to maintain sufficient staff to meet the needs of the patient;
6. failure to employ qualified personnel;
7. failure to remain operational on the days, and during the hours, the clinic has reported to the department that it will be open, unless the closure is unavoidable due to a man-made or natural disaster;
8. failure to submit fees, including but not limited to:
  - a. fee for the change of address or name;
  - b. any fine assessed by the department; or
  - c. fee for a CHOW;
9. failure to allow entry to a clinic or access to requested records during a survey;
10. failure to protect patients from unsafe care by an individual employed by a clinic;
11. failure to correct deficient practice for which a provisional license has been issued;
12. when clinic staff or owner has knowingly, or with reason to know, made a false statement of a material fact in any of the following:
  - a. application for licensure;
  - b. data forms;
  - c. clinical records;
  - d. matters under investigation by the department;
  - e. information submitted for reimbursement from any payment source; or
  - f. advertising;
13. clinic staff misrepresented or fraudulently operated a clinic;
14. conviction of a felony, or entering a plea of guilty or nolo contendere to a felony by an owner, administrator, director of nursing, or medical director as evidenced by a certified copy of the conviction;
15. failure to comply with all reporting requirements in a timely manner as requested by the department; or
16. action taken by the board against a physician owning, employed or under contract to a clinic for violation of the board's Pain Management Rules or other violations of the Medical Practice Act which would make him ineligible for licensure.

C. In the event a clinic's license is revoked or denied renewal, no other license application shall be accepted by the department from the owners of the revoked or denied clinic for a period of two years from the date of the final disposition of the revocation or denial action.

D. When a clinic is under a license revocation action, that clinic is prohibited from undergoing a change of ownership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

#### **§7821. Notice and Appeal Procedures**

A. The department shall furnish the applicant or clinic with written notice of the department's decision to deny a license, revoke a license, or refusal to renew a license.

1. The notice shall specify reasons for the action and shall notify the applicant or clinic of the right to request an administrative reconsideration or to request an appeal. A voluntary termination or expiration of the license is not considered an adverse action and is therefore not appealable.

2. The clinic shall have the right to file a suspensive appeal from the department's decision to revoke the clinic's license.

B. Administrative Reconsideration. A clinic may request an administrative reconsideration of the department's decision to revoke, deny, or refuse to renew a license.

1. A request for an administrative reconsideration shall be submitted in writing to the Health Standards Section within 15 days of receipt of notification of the department's action.

2. Administrative reconsideration is an informal process and shall be conducted by a designated official of the department who did not participate in the initial decision to impose the action taken.

a. The designated official shall have the authority to:

- i. affirm the department's decision;
- ii. rescind the department's decision;
- iii. affirm part or rescind part of the department's decision; or

iv. request additional information from either the department or the clinic.

b. A department spokesman and a clinic spokesman may make an oral presentation to the designated official during the administrative reconsideration.

3. Administrative reconsideration may be made solely on the basis of documents or oral presentations, or both, before the designated official and shall include:

- a. the statement of deficient practice; and
- b. any documentation the clinic may submit to the department at the time of the clinic's request for such reconsideration.

4. Correction of a deficiency shall not be a basis for administrative reconsideration.

5. An administrative reconsideration is not in lieu of the administrative appeals process and does not extend the time limits for filing an administrative appeal under the provisions of the Administrative Procedures Act.

C. Administrative Appeal Process. Upon denial or revocation of a license by the department, the clinic shall have the right to appeal such action by submitting a written request to the secretary of the department within 30 days after receipt of the notification of the denial or revocation of a license.

1. Correction of a deficiency shall not be the basis of an administrative appeal. Request for administrative reconsideration does not affect time frames for requesting an administrative appeal.

2. Notwithstanding the provisions of §7821.C, the department may immediately revoke a license in any case in which the health and safety of a client or the community may be at risk.

a. The clinic which is adversely affected by the action of the department in immediately revoking a license may, within 30 days of the closing, appeal devolutively from the action of the department by filing a written request for a hearing to the secretary of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

## **Subchapter C. Clinic Administration**

### **§7831. Medical Director**

A. Each clinic shall be under the direction of a medical director who shall be a physician who:

1. possesses a current, unrestricted license from the board to practice medicine in Louisiana;
2. during the course of his practice, has not been denied the privilege of prescribing, dispensing, administering, supplying, or selling any controlled dangerous substance; and
3. during the course of his practice has not had any board action taken against his medical license as a result of dependency on drugs or alcohol.

B. The medical director shall be a physician certified in the subspecialty of pain management by a member board of the American Boards of Medical Specialties, except for the following exemption.

1. A clinic which has been verified as being in operation on or before June 15, 2005, is required to have a medical director, but is exempt from having a medical director who is certified in the subspecialty of pain management by a member board of the American Boards of Medical Specialties.

C. Responsibilities. The medical director is responsible for the day-to-day operation of a clinic and shall be on-site 50 percent of the time during the operational hours of the clinic. In the event the medical director is not on-site during the hours of operation, then the medical director shall be available by telecommunications and shall be able to be on-site within 30 minutes.

1. The medical director shall oversee all medical services provided at the clinic.

2. The medical director shall ensure that all qualified personnel perform the treatments or procedures for which each is assigned. The clinic shall retain documentation of proficiency and training.

3. The medical director, or his designee, is responsible for ensuring a medical referral is made to an addiction facility, when it has been determined that a patient or staff member has been diverting drugs or participating in the illegal use of drugs.

4. The medical director is responsible for ensuring a urine drug screen of each patient is obtained as part of the initial medical evaluation and intermittently, no less than quarterly, during the course of treatment for chronic pain.

5. The medical director shall ensure that patients are informed of after-hours contact and treatment procedure.

6. The medical director is responsible for applying to access and query the Louisiana Prescription Monitoring Program (PMP).

a. The PMP is to be utilized by the medical director and the pain specialist as part of a clinics' quality assurance program to ensure adherence to the treatment agreement signed by the patient.

i. The treatment agreement states that the patient has been informed that he shall only obtain and receive narcotic prescriptions from the clinic where he is being treated for chronic pain.

(a). The patient shall be subject to periodic unannounced drug screens and shall not participate in diversion of any controlled dangerous substance.

b. Compliance to this agreement is to be determined and evaluated at each subsequent visit to a clinic when the patient receives a prescription for a controlled dangerous substance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

### **§7833. Clinic Operations**

A. A clinic shall establish and implement policies and procedures consistent with all pain management rules and regulations issued by the board.

B. A clinic shall verify the identity of each patient who is seen and treated for chronic pain management and who is prescribed a controlled dangerous substance.

C. A clinic shall establish practice standards to assure quality of care, including but not limited to, requiring that a prescription for a controlled dangerous substance may have a maximum quantity of a 30 day supply and shall not be refillable.

D. On each visit to the clinic which results in a controlled dangerous substance being prescribed to a patient, the patient shall be personally examined by a pain specialist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

## **Subchapter D. Facility Requirements**

### **§7843. Facility Inspections**

A. The clinic shall pass all required inspections and maintain a current file of reports and other documentation demonstrating compliance with applicable laws and regulations. The inspections shall be signed, dated, and free of any outstanding corrective actions.

1. The following inspections are required:

- a. annual fire marshal inspection;
- b. annual inspection by the Office of Public Health;
- c. quarterly fire alarm system test by facility staff;

and

d. regular inspections of the clinic elevators, if any.

B. A certificate of occupancy, as required by local authorities, shall be on file in the clinic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

### **§7845. Physical Environment**

A. A clinic shall be constructed, arranged and maintained to ensure the safety and well being of the patient and the general public.

B. The clinic premises shall meet the following requirements including, but is not limited:

1. a sign maintained on the clinic premises that can be viewed by the public which shall contain, at a minimum, the:

- a. name of the clinic; and
- b. hours of operation;

2. a neat and clean general appearance of the clinic with established policies and procedures for maintaining a clean and sanitary environment on a regular basis;

3. an effective pest control program shall be maintained to ensure the clinic is free of insects and rodents;
4. proper ventilation, lighting and temperature controls in all areas of the clinic;
5. provisions for emergency lighting and communications, in the event of sudden interruptions in utilities to the clinic; and
6. clearly marked exits and exit pathways with exit signs in appropriate locations.

C. Administrative and public areas of the clinic shall include at least the following:

1. a reception area with a counter or desk, or both;
2. a waiting area with seating containing not less than two seating spaces for each examination or treatment room;
3. a conveniently located, handicapped accessible, public toilet with a lavatory for hand washing with hot and cold water;
4. a conveniently accessible public telephone;
5. a conveniently accessible drinking fountain;
6. at least one consultation room large enough to accommodate family members, in addition to treatment rooms;
7. designated rooms or areas for administrative and clerical staff to conduct business transactions, store records and carry out administrative functions, separate from public areas and treatment areas;
8. a multipurpose room for conferences, meetings, and health education purposes which may be used for the consultation room;
9. filing cabinets and storage for medical records, such records shall be protected from theft, fire, and unauthorized access and having provisions for systematic retrieval of such records;
10. adequate storage for the staff's personal effects; and
11. general storage facilities for supplies and equipment.

D. Clinical Facilities shall at least include the following.

1. General-Purpose Examination Room. Each room shall allow at least a minimum floor area of 80 square feet, excluding vestibules, toilets, and closets. Room arrangement should permit at least 2 feet 8 inches clearance at each side and at the foot of the examination table. A hand washing station and a counter or shelf space adequate for writing shall be provided.
2. Treatment Room. A room for minor surgical and cast procedures, in the event such services are provided, shall have a minimum of 120 square feet, excluding vestibules, toilets, and closets. The minimum room dimension shall be 10 feet by 12 feet. A lavatory and a counter or shelf space for writing shall be provided.
3. Medication Storage Area. All drugs and biologicals shall be kept under proper temperature controls in a locked, well illuminated, clean medicine cupboard, closet, cabinet or room.:
  - a. drugs and biologicals shall be accessible only to individuals authorized to administer or dispense such drugs or biologicals;
  - b. all controlled dangerous drugs or biologicals shall be kept separately from non-controlled drugs or biologicals in a locked cabinet or compartment;

c. drugs or biologicals that require refrigeration shall be maintained and monitored under proper temperature controls in a separate refrigerator.

4. Clean Storage Area. A separate room or closet for storing clean and sterile supplies shall be provided.
5. Soiled Utility Room. Provisions shall be made for separate collection, storage, and disposal of soiled materials.
6. Sterilization Area. An area in the clinic shall be designated for sterilizing equipment if sterilization of supplies, equipment, utensils and solutions are performed in the clinic.
7. Housekeeping Room. A separate housekeeping room shall contain a service sink and storage for housekeeping supplies and equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

#### §7847. Infection Control Requirements

A. The clinic shall have policies and procedures to address the following:

1. decontamination;
2. disinfection;
3. sterilization;
4. storage of sterile supplies;
5. disposal of biomedical and hazardous waste; and
6. training of all staff in universal precautions upon initial employment and annually thereafter.

B. The clinic shall make adequate provisions for furnishing properly sterilized supplies, equipment, utensils and solutions.

1. Some disposable supplies and equipment shall be utilized but when sterilizers and autoclaves are utilized to sterilize supplies, equipment, utensils and solutions, they shall be of the proper type and necessary capacity to adequately sterilize such implements as needed by the clinic.

2. The clinic shall have policies and procedures that address the proper use of sterilizing equipment and monitoring performed to ensure that supplies, equipment, utensils and solutions are sterile according to the manufacturers' recommendations and standards of practice.

a. Such procedures and policies shall be in writing and readily available to personnel responsible for sterilizing procedures.

3. To avoid contamination, appropriate standards of care techniques for handling sterilized and contaminated supplies and equipment shall be utilized.

C. There shall be a separate sink for cleaning instruments and disposal of non-infectious liquid waste.

D. Each clinic shall develop, implement and enforce written policies and procedures for the handling, processing, storing and transporting of clean and dirty laundry.

1. In the event a clinic provides an in-house laundry, the areas shall be designed in accordance with appropriate clinic laundry design in which a soiled laundry holding area is provided and physically separated from the clean laundry area. Dirty or contaminated laundry shall not be stored or transported through the clean laundry area.

2. In the event an in-house laundry is utilized, special cleaning and decontamination processes shall be used for contaminated linens, if any.

E. A clinic shall provide housekeeping services which assure a safe and clean environment. Housekeeping procedures shall be in writing. Housekeeping supplies shall be made available to adequately maintain the cleanliness of the clinic.

F. Garbage and biohazardous or non-biohazardous waste shall be collected, stored and disposed of in a manner which prevents the transmission of contagious diseases and to control flies, insects, and animals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

#### **§7849. Health and Safety Requirements**

A. Environmental Requirements. The clinic, including its grounds, buildings, furniture, appliances, and equipment, shall be structurally sound, in good repair, clean, and free from health and safety hazards.

1. The environment of the clinic shall enhance patient dignity and confidentiality.

2. The clinic shall prohibit weapons of any kind in the clinic or on the clinic premises.

B. Evacuation Procedures and First Aid. The clinic shall respond effectively during a fire or other emergency. Each clinic shall:

1. have an emergency evacuation procedure including provisions for the handicapped;

2. conduct fire drills at least quarterly and correct identified problems promptly;

3. be able to evacuate the building safely and in a timely manner;

4. post exit diagrams conspicuously throughout the clinic; and

5. post emergency telephone numbers by all telephones, including but not limited to the patient telephone in the waiting area.

C. A clinic shall take all precautions to protect its staff, patients and visitors from accidents of any nature.

D. The clinic shall have a written, facility-specific, disaster plan and its staff shall be knowledgeable about the plan and the location of the plan.

E. Emergency Care.

1. At least one employee on-site at each clinic shall be certified in Advanced Cardiac Life Support (ACLS) and be trained in dealing with accidents and medical emergencies until emergency medical personnel and equipment arrive at the clinic.

2. A clinic shall have first aid supplies which are visible and easy to access.

3. The following equipment and supplies shall be maintained and immediately available to provide emergency medical care for problems which may arise:

a. emergency medication, as designated by the medical director;

b. oxygen and appropriate delivery supplies, including and not limited to:

i. nasal cannula; and

ii. masks;

c. intravenous fluids; and

d. sterile dressings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

#### **§7851. Quality Assurance**

A. A clinic, with active participation of its medical staff, shall conduct an ongoing, comprehensive quality assurance (QA) program which shall be a self-assessment of the quality of care provided at the clinic. Quality indicators shall be developed to track and trend potential problematic areas. These quality indicators shall include, at a minimum, the following:

1. the medical necessity of procedures performed, complications as a result of such performed procedures, and appropriateness of care;

2. any significant adverse affects of medical treatment or medical therapy, including the number of overdoses of prescribed medications or the number of deaths resulting from such overdoses, or both;

3. the number of patients referred to other health care providers for additional treatment or to an addiction facility;

4. the number of patient or family complaints or grievances and their resolutions;

5. the number of patients the clinic refuses to continue to treat due to misuse, diversion of medications, or non-compliance with prescribed medication treatment regimen;

6. identified infection control incidents; and

7. the monitoring of patients who have been treated with prescribed narcotic pain medication for a continuous period of 12 months and longer.

B. At least quarterly, the clinic shall systematically analyze all data and develop a corrective action plan for identified problems determined through the clinic's QA process.

1. When appropriate, the clinic shall make revisions to its policies and procedures and provide written documentation that the corrective action plan has been monitored for continued sustained compliance to the appropriate standard of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

#### **Subchapter E. Patient Records**

##### **§7861. Patient Records**

A. Retention of Patient Records

1. The clinic shall establish and maintain a medical record on each patient. The record shall be maintained to assure that the medical treatment of each patient is completely and accurately documented, records are readily available and systematically organized to facilitate the compilation and copying of such information.

a. Safeguards shall be established to maintain confidentiality and protection of the medical record from fire, water, or other sources of damage.

2. The department shall have access to all business records, patient records or other documents maintained by or on behalf of the clinic to the extent necessary to ensure compliance with this Chapter.

a. Ensuring compliance includes, but is not limited to:

i. permitting photocopying of records by the department; and

ii. providing photocopies to the department of any record or other information the department may deem necessary to determine or verify compliance with this Chapter.

3. Patient records shall be kept for a period of six years from the date a patient is last treated by the clinic. The patient records shall:

a. remain in the custody of the clinic;

b. be maintained on the premises for at least two years from the date the patient was last treated at the clinic; and

c. not be removed except under court order or subpoena.

#### B. Content of Medical Record

1. A medical record shall include, but is not limited to, the following data on each patient:

a. patient identification information;

b. medical and social history, including results from an inquiry to the Prescription Monitoring Program (PMP), if any;

c. physical examination;

d. chief complaint or diagnosis;

e. clinical laboratory reports, including drug screens, if any;

f. pathology report (when applicable), if any;

g. physicians orders;

h. radiological report (when applicable), if any;

i. consultation reports (when applicable), if any;

j. current medical and surgical treatment, if any;

k. progress notes;

l. nurses' notes of care, including progress notes and medication administration records;

m. authorizations, consents, releases, and emergency patient or family contact number;

o. special procedures reports, if any;

p. an informed consent for chronic pain narcotic therapy; and

q. an agreement signed by the patient stating that he/she:

i. has been informed and agrees to obtain and receive narcotic prescriptions only from the clinic where he is receiving treatment for chronic pain;

ii. shall be subject to quarterly, periodic, unannounced urine drug screens;

iii. shall not participate in diversion of any controlled dangerous substance or narcotic medications, or both;

iv. shall not participate in illicit drug use; and

v. acknowledges that non-compliance with this agreement may be a reason for the clinic's refusal to treat.

2. An individualized treatment plan shall be formulated and documented in the patient's medical record. The treatment plan shall be in accordance with the board's Pain Rules and shall include, but is not limited to, the following:

a. medical justification for chronic pain narcotic therapy;

b. documentation of other medically reasonable alternative treatment for relief of the patient's pain have been considered or attempted without adequate or reasonable success; and

c. the intended prognosis of chronic pain narcotic therapy which shall be specific to the individual medical needs of the patient.

3. Signatures. Clinical entries shall be signed by a physician, as appropriate, i.e., attending physician, consulting physician, anesthesiologist, pathologist, etc. Nursing progress notes and assessments shall be signed by the nurse.

4. Nurses' Notes. All pertinent assessments, treatments and medications given to the patient shall be recorded in the nurses' progress notes. All other notes, relative to specific instructions from the physician, shall also be recorded.

5. Completion of the medical record shall be the responsibility of the patient's physician.

C. Provided the regulations herein are met, nothing in this Section shall prohibit the use of automated or centralized computer systems, or any other electronic or non-electronic techniques used for the storage of patient medical records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, August 28, 2007, at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pain Management Clinics Licensing Standards

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that \$2,584 (\$1,292 SGF and \$1,292 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase self generated funds by approximately \$21,600 for FY 07-08, \$27,600 for FY 08-09, and \$33,600 for FY 09-10 as a result of the collection of annual fees from the licensing of pain management clinics. It is anticipated that \$1,292 will be collected in FY 07-08 for the federal share of the



expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to adopt provisions to establish licensing standards for pain management clinics (approximately 35 clinics), pursuant to Act 488 of the 2005 Regular Session of the Louisiana Legislature. Currently operating and new pain management clinics will have to comply with the proposed licensing standards. It is anticipated that the implementation of this proposed rule will impose increased fees of approximately \$21,600 for FY 07-08, \$27,600 for FY 08-09, and \$33,600 for FY 09-10 on pain management clinics.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Jerry Phillips  
Medicaid Director  
0707#052

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Social Services  
Military Family Assistance Board**

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

The Louisiana Military Family Assistance Board hereby gives notice that it intends to adopt LAC 67:III.Chapters 59-67 as the final rules of the Military Family Assistance Board in accordance with R.S. 46:120 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 67**

**SOCIAL SERVICES**

**Part III. Family Support**

**Subpart 18. Military Family Assistance**

**Chapter 59. Authority, Construction and Definitions**

**§5901. Authority**

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

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

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

**§5903. Construction of Regulations; Severability**

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

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

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

**§5905. Definitions**

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

*Activated Military Personnel or Activated Military Person*—a person domiciled in Louisiana for civilian purposes, names Louisiana as Home of Residence (HOR) for military purposes, and who is a member of a reserve component of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, including the Louisiana National Guard, and called to active federal service in excess of 30 days or who is a member of the Louisiana National Guard and called to active state service pursuant to R.S. 29:7.

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

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

*Board*—the Louisiana Military Family Assistance Board.

*Claimant*—an eligible applicant.

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

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

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

*Fund Committee*—the committee comprised of three board members appointed by the chairman of the board to assist in administering the Louisiana Military Family Assistance Program which committee shall also serve as an appellate body for all claims of \$1500 or less before a final appeal is made to the full board.

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

a. a spouse;

b. a natural child, adopted child, step child, or illegitimate child, if acknowledged by the person or parenthood has been established by a court of competent jurisdiction, except that if such child has not attained the age of 18 years, the term means a surviving parent or legal guardian of such child;

c. any other person claimed as a dependent on the federal income tax of the activated military person;

d. a biological or adoptive parent, unless legal custody of the person by the parent has been previously terminated by reason of a court decree or otherwise under law and not restored;

e. a brother or sister of the person, if such brother or sister has attained the age of 18 years; or

f. any other person, if such person was given sole legal custody of the person by a court decree or otherwise under law before the person attained the age of 18 years and such custody was not subsequently terminated before that time.

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

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

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

## **Chapter 61. Eligibility and Application Process**

### **§6101. Eligibility**

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

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

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

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

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

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

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

### **§6103. Application Process**

#### **A. Eligible Applicant Responsibilities**

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

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

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

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

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

6. To expedite the application process, applications and supporting documents may be sent by facsimile transmission to MFA Third Party Administrator. If the application and supporting documents are faxed, an application with the applicant's original signature must also be mailed, along with all supporting documents, to the third party administrator. The approval authority shall not approve

or pay a request for assistance until an original application is received.

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

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

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

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

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

### **§6301. Types of Grants; Restrictions on Awards**

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

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

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

C. The request of an eligible applicant may be denied if the activated military personnel is not in good standing with the appropriate military unit at the time the application is submitted or the time payment is made.

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

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

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

### **§6303. Award Amounts**

A. The maximum dollar amount that may be awarded on behalf of an activated military person for a need-based claim per 12 month period is \$10,000.

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

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

1. An eligible applicant may be awarded an additional one-time lump sum award for cost directly related to a service related death or an injury with a greater than 50 percent residual disability.

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

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

a. the circumstance in which the injured military person is recuperating in a location away from home that

necessitates travel by family members to visit with the injured military person. Costs associated with transportation, lodging, meals, and other related matters not covered by any other source to enable family members to visit an activated military person with a service related injury with a greater than 50 percent residual disability, whether the extent of the disability has been determined at the time application is made or is reasonably anticipated to result in a greater than 50 percent residual disability at the time application is made, may be requested;

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

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

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

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

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

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

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

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

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

C. For fiscal year 2006/2007, the maximum percentage of the Military Family Assistance Fund that may be directed to one-time lump sum awards shall not exceed 5 percent. The percentage shall be based on the amount of funds on deposit in the Military Family Assistance Fund as of the date of the approval of these rules.

D. For fiscal year 2007/2008 and each succeeding fiscal year, the maximum percentage of the Military Family Assistance Fund that may be directed to one-time lump sum awards shall not exceed 20 percent. This percentage shall be based on the amount of funds on deposit in the Military Family Assistance Fund as of the first day of the fiscal year.

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

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

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

**§6501. Third Party Administrator**

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

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

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

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

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

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

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

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

a. the funds are requested for necessary expenses incurred or to be incurred;

b. the necessary expenses created or will create an undue hardship on the activated military person or family member;

c. the undue hardship is directly related to the activation of the military person;

d. the activated military person or family member does not have reasonable and timely access to any other funding source;

e. payment of the claim does not supplant other available public or private funds; and

f. the Louisiana Military Family Assistance Fund is the eligible applicant's last resort.

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

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

and processing, approval or disapproval, and payment by the third party administrator in the event of approval.

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

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

1. In no event shall the time period between receipt of the completed application by the third party administrator and release of the written determination by the third party administrator exceed 30 calendar days.

2. The written determination shall be:

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

H. If the third party administrator schedules a meeting, it shall make a determination within 15 days following the date that such meeting actually takes place. The determination shall be to either approve or disapprove the claim.

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

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

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

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

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

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

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

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

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

#### **§6503. Fund Committee**

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

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

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

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

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

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

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

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

#### **§6505. The Board and Chairman of the Board**

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

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

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

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

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

F. The board shall exercise oversight of the activities of the third party administrator and the Fund Committee.

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

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

### **Chapter 67. Appeals; Withdrawal of Applications; Waivers**

#### **§6701. Appeals**

A. An eligible applicant may appeal the third party administrator's disapproval of all or any part of the request for assistance to the Fund Committee within 30 days of the receipt of the written determination disapproving the claim.

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

C. An eligible applicant may appeal the Fund Committee's disapproval of claim to the board within 30 days of the receipt of the written determination disapproving the claim.

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

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

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

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

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

### **§6703. Withdrawal of Applications**

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

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

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

### **§6705. Waivers**

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

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

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

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

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

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

### **Family Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Military Family Assistance Board, through its chairman, has considered the potential family impact of adopting LAC 67:III.5901-6705, inclusive.

It is accordingly concluded that adopting LAC 67:III.5901-6705, inclusive, appears to impact the family as follows.

1. The effect on the stability of qualified military families, especially the financial stability of qualified military families, is unquantifiable, but decidedly positive. There is no anticipated direct impact on the stability of other families, but the indirect impact on other families is likewise unquantifiable, but positive.

2. There is no anticipated impact on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of qualified military families is unquantifiable, but decidedly positive. There is no anticipated impact on the functioning of other families.

4. There is no anticipated impact on the family earnings and family budgets of non-qualified military families. There will be an unquantifiable, but decidedly positive, impact on the family budgets of qualified military families.

5. There is no anticipated impact on the behavior and personal responsibility of children.

6. There is no anticipated impact on the family or a local government to perform the functions as contained in the proposed Rule.

Interested persons may submit written comments until 5 p.m., August 10, 2007, to Judy Cockerham, Attorney General's Office, 1885 North Third Street, Fourth Floor, Baton Rouge, LA 70802.

Major General Hunt Downer  
Chairman

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Military Family Assistance**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The purpose of this rule is to establish procedures for the administration of the Military Family Assistance Fund, per Act 151 of the 2005 Louisiana Legislature. There is no implementation cost to local governmental units. There are anticipated costs by both the Department of Social Services and the Office of Attorney General as necessary to administer the program and the fund. This rule provides that up to five percent of the total amount deposited into the fund each fiscal year can be used for the state administration of the program by the Department of Social Services and up to five percent of the total amount deposited into the fund each fiscal year can be used to pay for third party administrator's expenses of the Attorney General's Office. The ultimate expenses that will be incurred by these entities are unknown at this time.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local government units. The Military Family Assistance Fund receives donations from individual income and sales tax returns and from private entities. In FY 05/06, \$2,850 was deposited into the fund from private entities. In FY 06/07, \$8,621 from private entities and \$204,440 from individual income tax and sales tax returns were deposited into the fund. To date the fund has a total of \$215,963, which includes interest earned. Subsequent fiscal year collections are assumed to be comparable to existing collections. These funds are to be used to pay administrative costs to the Department of Social Services and expenses to the Office of Attorney General as necessary and to be distributed to qualified military personnel and/or their families.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The benefits to Louisiana's qualified military personnel and their families are estimated to be significant, but are unquantifiable at this time because this is a new program. There will be two types of grants available through this fund: 1) need-based grants of up to \$10,000 per active duty order per 12 month period, and 2) lump sum grants of \$700 in extenuating circumstances for costs directly related to the service-related death or the service-related injury with a greater than 50 percent residual disability of the qualified military person. It is anticipated that most of the need-based grants will be for \$1,500 or less to cover every day living expenses, such as utility bills, day care expenses, car maintenance costs, and medical bills.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect on competition and employment is estimated.

Major General Hunt Downer  
Chairman  
0707#047

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Social Services  
Office of Community Services**

**Allocation of Hurricane Relief Funds Supplemental  
Appropriation (LAC 67:V.717)**

In accordance with provision of the Administrative Procedures Act, R.S. 49:953 et seq., the Department of Social Services, Office of Community Services (DSS/OCS), hereby gives notice of its intent to promulgate a Rule creating LAC 67:V.717, Allocation of Hurricane Relief Funds Supplemental Appropriation.

Under the Department of Defense Appropriations Act (H.R. 2863), \$220,901,534 has been allocated to Louisiana in a supplemental appropriation to Social Services Block Grant (SSBG) funds for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005. In addition to other uses permitted by Title XX of the Social Security Act, funds appropriated under this heading may be used for health services, including mental health services, and for repair, renovation and construction of health facilities, including mental health facilities. It recognizes that the hurricanes in the Gulf of Mexico in calendar year 2005 have imposed extreme

demands for social and health care services in affected states. States may use SSBG funds for a wide array of human services. The Administration for Children and Families, (ACF) approved a waiver of the provisions under Section 2005(a) of the Social Security Act on June 2, 2006 to allow the use of SSBG Supplemental funds for the rebuilding and construction of childcare facilities in Louisiana.

The OCS proposes to enter into contracts, memoranda of understanding, or other agreements with the entities listed in this rule including but not limited to such services as health services, including mental health services, for repair, renovation, and construction of facilities, including Class A child care facilities and mental health facilities, intensive benefits, and case management for the citizens of this state affected by the hurricanes.

**Title 67**

**SOCIAL SERVICES**

**Part V. Office of Community Services**

**Chapter 7. Social Services Block Grant**

**§717. Allocation of Hurricane Relief Funds SSBG  
Supplemental Appropriation**

**A. Purpose, Need, and Eligibility**

1. Under the Department of Defense Appropriations Act (H.R. 2863), \$220,901,534 has been allocated to Louisiana in a supplemental appropriation to Social Service Block Grant (SSBG) funds for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005. In addition to other uses permitted by Title XX of the Social Security Act, funds appropriated under this heading may be used for health services, including mental health services, and for repair, renovation and construction of facilities, including mental health facilities. The Administration for Children and Families, (ACF) approved a waiver of the provisions under Section 2005 (a) of the Social Security Act on June 2, 2006 to allow the use of SSBG Supplemental funds for the rebuilding and construction of childcare facilities in Louisiana.

2. The Office of Community Services (OCS) proposes to enter into contracts, memoranda of understanding, or other agreements with the entities listed in this rule including but not limited to such services as health services, including mental health services, for repair, renovation, and construction of facilities, including Class A child care facilities and mental health facilities, intensive benefits, and case management for the citizens of this state effected by the hurricanes. This Rule is effective for the SSBG allotment of federal fiscal year 2006.

3. It recognizes that the hurricanes in the Gulf of Mexico in calendar year 2005 have imposed extreme demands for social and health care services in affected states. States may use SSBG funds for a wide array of human services.

4. Because of the nature of the natural disaster, many affected individuals and families will not have in their possession customary documentation of their economic status to substantiate eligibility for SSBG supported services. Also, many individuals or families who may not have been eligible for assistance prior to the hurricanes may be, because of the devastation, eligible now. Therefore, "presumptive eligibility" determinations may be made based on applicant residence in known areas of devastation at the

time of hurricane Katrina (H Katrina) or hurricane Rita (H Rita) or post-hurricane experience of affected individuals or families. Each entity that receives the SSBG funding can have additional or different eligibility requirements.

5. The following areas to be addressed include:

a. the health care needs of people affected by the hurricanes in the Gulf of Mexico in calendar year 2005 and who lack health insurance or other adequate access to care and to help health care create a "safety net." This would include intended uses of these funds in areas of mental health service provision and provision for substance and addictive disorder interventions and services;

b. expanding services to meet the needs of families in the child welfare system in the areas of foster care, adoption, prevention, intervention, and protective services in child welfare;

c. institutions serving these populations in order to build community health centers, rural hospitals and clinics, community mental health centers, public hospitals, and other providers with substantial percentages of uninsured patients. Funds may be made available for repairs and reconstruction needed to allow health centers and similar providers to resume or expand operations, or to help key providers meet salary and other costs associated with resuming or restoring health services;

d. providing social service delivery and case management services to families in order to assist with identification of housing needs, development of individualized recovery plans and referral of families to available disaster relief services, provide for case management and follow-up with families, and to provide for direct emergency assistance in human services;

e. restoring critical child care services will support families as they return to work in hurricane affected parishes. Child care supports are vital to reestablishing a workforce and strengthening our state's economy. Child care is a critical need to promote independence and safety of families and children. Restoring the child care infrastructure is a current need in Louisiana. Funds will be available to rebuild the child care infrastructure by repairing and/or building Class A child care centers and providing training and technical assistance necessary in attracting and retaining a child care workforce.

#### B. Department of Social Services

1. Child Welfare Services—Foster Care, Adoption, Prevention, Intervention and Protective Services. Services will include anger management, parenting skills, counseling, etc. Visitation expenses include travel for the foster child and foster parent/caretaker from their displaced location to the birthparent's location, lodging, and meals during the travel. This includes travel both within and outside of Louisiana. It is estimated that 2/3 of impacted children lost at least a significant portion or all of their personal belongings that have yet to be replaced. These were possessions lost or damaged during the time during and after H Katrina or H Rita. These funds will be used in this arena. These funds will be used to provide for the youth effected by H Katrina or H Rita in OCS independence programs. These are programs used to assist children aging out of foster care custody and who have greater needs for transitional assistance than is typically provided, especially in the aftermath of the upheaval and displacement brought on by the storms of

2005. These funds will be used for foster care reunification services, as additional demands for such services are felt as a result and impact on the child welfare system of services due to H Katrina and H Rita. After most disasters, there is an evidenced increase in abuse and/or neglect as well as disruptions in foster care. Such funds will be used to obtain trauma-related services to help stabilize placements and prevent disruptions by providing increased service access for family services, respite care, counseling, parenting classes, etc.

2. Child Care Services. Louisiana must rebuild the child care infrastructure in the hurricane affected parishes to assist families in returning to work while ensuring their children receive quality child care. To meet the critical need for child care in Louisiana, DSS/OFS will implement a child care support system to rebuild the child care sector. This will be done by three initiatives.

a. Training and Technical Assistance for Child Care Providers. The objective of this program is to provide intensive training and technical assistance for current and prospective child care providers to increase the supply of child care businesses opening and reopening in the hurricane affected areas. Training and technical assistance will also be provided to current and prospective child care providers and other professionals engaged in the system. The services will be available in Calcasieu, Cameron, Orleans, Jefferson, Plaquemines, St. Bernard, St. Tammany and Washington Parishes.

b. Furnishing Child Care Centers Program. This component will offer a program for equipping, furnishing, and supplying Class A Child Care centers whose licenses were suspended due to hurricane-related damage and have reopened, Class A centers in the process of opening or reopening, or Class A centers being constructed. An assessment of each center will be conducted and a priority for equipping Class A child care centers will be established. Furnishings, equipment and supplies include but are not limited to curriculum, books, furniture, appliances, office equipment, developmentally and age appropriate play equipment for both indoor and outdoor space and other items appropriate to the operation of a Class A licensed day care center.

i. Eligibility will be limited to the Class A child care centers that are currently participating in the Child Care Assistance Program (CCAP) funding; those reopening, that participated in the CCAP within a year prior to August 2005; or for those new Class A child care centers that have opened since August 29, 2005, and are committing to serve CCAP eligible children within 60 days of opening for business.

ii. The program will be offered in Calcasieu, Cameron, Orleans, Jefferson, Plaquemines, St. Bernard, St. Tammany and Washington parishes.

iii. Eligible expenses dated October 1, 2005 or after will be reimbursable. Eligible reimbursable expenses are those not covered by other reimbursements, such as insurance and other state or federal funds.

iv. Class A child care centers participating in this program must agree to accept all requirements as defined by SSBG and the state, including federal and state interest.

c. Child Care Facilities Restoration Fund: This program will provide funds for repair and/or construction of Class A child care centers in hurricane devastated parishes

Calcasieu, Cameron, Orleans, Jefferson, Plaquemines, St. Bernard, St. Tammany and Washington. The state must apply its appropriate administrative standards when issuing sub awards to guarantee the protection and disposition of real estate rebuilt, constructed or purchased with grant funds and the state is also required to file a Notice of Federal Interest document to officially recognize the Federal Government's continuing financial interest in the property. The minimum eligibility criteria for the child care facilities will include the following:

- i. previously held Class A license or agree to become a Class A licensed facility and agree to maintain a Class A license;
- ii. for Class A centers that previously held a Class A license, have served children subsidized with CCAP funds within 12 months prior to August 2005 and commit to doing so moving forward, and provide assurance that SSBG funding along with any other identified funding will allow the center to reopen and serve children;
- iii. for an entity wishing to open a new Class A child care center, must declare intention to serve children subsidized with CCAP funding and provide assurance that SSBG funding along with any other identified funding will allow the center to reopen and serve children;
- iv. must provide evidence of current demand for services;
- v. must provide evidence of capacity to provide quality child care services;
- vi. must agree to accept all requirements as defined by SSBG and the state including federal and state interest;
- vii. eligible expenses dated October 1, 2005 or after will be reimbursable. Eligible reimbursable expenses are those not covered by other reimbursements, such as insurance and other state or federal funds.

#### C. Department of Health and Hospitals

##### 1. Behavioral Health Services

a. Funds shall be used to restore and expand mental health services, substance abuse treatment and prevention services and developmental disability services as follows:

- i. immediate intervention—crisis response system;
- ii. substance abuse treatment and prevention;
- iii. behavioral health services for children and adolescents;
- iv. preventing or reducing inappropriate institutional care;
- v. behavioral health program restoration and resumption;
- vi. health care work force; and
- vii. operational tools.

2. Preventive and Primary Care. Funds shall be used to issue grant awards to parishes as bridge funding to restore and develop comprehensive and integrated primary, preventive and behavioral health care services, with an emphasis on restoring safety net services for the uninsured and underinsured.

#### D. Louisiana State University Health Sciences Center (LSU-HSC)

1. Funds Allocated to LSU. HSC would be used as follows.

a. Keep the healthcare workforce intact by retaining faculty and residents.

b. Set up primary care clinics across the city with funding for salaries for dentists, physicians, nurses and allied health personnel.

c. Expand capabilities to address psychiatric needs in New Orleans and surrounding areas.

d. Support the General Dentistry Residency, Oral and Maxillofacial Surgery Residency, and Oral Medicine programs that provide preventive and primary care to the uninsured at multiple sites in the state.

e. Prepare an adequate number of allied health professionals who can function in primary, secondary, and tertiary care through the School of Allied Health Professions. The LSUHSC-New Orleans is a primary source of graduate level practitioners in the areas of Physical Therapy, Occupational Therapy, Speech and Language Pathology, Audiology, Medical Technology, Cardiopulmonary Technology, and Rehabilitation Counseling for New Orleans and the state of Louisiana.

f. Resume Early Intervention Institute and the Human Development Center direct service, consultative, and advocacy programs for individuals with disabilities. Reestablishing these services will ensure maintenance of high-quality health care educational experiences for individuals who work with these citizens who represent a portion of our population that is typically uninsured, underserved, and at the greatest risk for developing physical and mental problems.

#### E. LSU Health Care Services Division (HCS D)

1. Funding to the HCS D in the current fiscal year will enable the Division to continue providing the following services:

a. the enhancement of primary care services at the regional hospitals to accommodate the population shifts which have occurred;

b. the patient pharmaceutical procurement program which matches needy patients with low cost medications that are essential to proper management of such conditions as diabetes, hypertension, asthma, HIV and asthma which have the effect of preventing further and or rapid development of the disease;

c. provide needed financing for eight neighborhood health units currently under development for placement in New Orleans;

d. continued funding of the EMED currently at the New Orleans Convention Center;

e. funding for the Level I Trauma Service operational costs anticipated at the Elmwood Hospital location;

f. Provide the HCS D hospitals with the ability to continue its current level of support for Mental and Behavioral Health Programs.

#### F. Louisiana Family Recovery Corps

1. The Department of Social Services, Office of Community Services (DSS/OCS) will contract with the Louisiana Family Recovery Corps (LFRC) to provide (SSBG) approved services to individuals and families displaced by Hurricanes Katrina or Rita through programs developed by LFRC. The LFRC, an independent non-profit organization, was created to mobilize and coordinate



humanitarian services to displaced Louisiana families in the wake of these disasters.

2. Eligibility for SSBG approved services is limited to individuals and families that were displaced as a result of Hurricane Katrina or Hurricane Rita. LFRC, in coordination with the department, is authorized to develop programs with more restrictive eligibility requirements than those provided above, including but not limited to financial eligibility, pre-storm residence, current or prospective residence, age, and disability.

3. Eligible services are those directed at the goals of:

a. achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

b. achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

c. preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

d. preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; and

e. securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

4. LFRC, in coordination with the department, is authorized to develop programs that provide services that are necessary to address the consequences of the hurricanes for the eligible population and are directed at the goals of SSBG.

#### G. Tulane University Health Sciences Center

1. Tulane University will help sustain the health care safety net in New Orleans, as well as assist in responding to the new health care crisis in this community. These funds may be utilized in the following areas:

a. sustain, and when needed, enhance capacity to provide primary care, emergency care, public health preparedness and training, adult and child psychiatry, women's health, children's health, health equality, environmental health, infectious diseases to the to under and uninsured;

b. maintain a high-quality biomedical workforce in the greater New Orleans region through retention of existing healthcare faculty and residents;

c. support for the School of Public Health and Tropical Medicine;

d. retention and establishment of primary care clinics;

e. support for Cancer Center and Gene Therapy Center;

f. support for clinical research and supporting faculty and staff.

#### H. Governor's Office of Elderly Affairs

1. The Department of Social Services will enter into an agreement with the Governor's Office of Elderly Affairs to provide necessary services to seniors as a result of hurricanes Rita or Katrina of 2005.

2. Eligibility for SSBG approved services is as follows:

a.. age 60 or over; and

b. individuals with an adult onset disability who have a need for living assistance;

c. clients must have resided in one of the 37 federally declared disaster parishes at the time of hurricanes Katrina and Rita of 2005. Those parishes are Acadia, Allen, Ascension, Assumption, Calcasieu, Cameron, Beauregard, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, West Baton Rouge, and West Feliciana Parish.

3. Services to be provided include the following:

a. Material Aid. Assistance includes but is not limited to assistance with prescription drugs not covered by another program, adult diapers or other personal hygiene items, basic furniture items (beds or bedding), assistance devices, such as walkers, canes, wheelchairs, and other goods such medical supplies;

b. minor home repairs needed in order to make homes safe and livable, such as replacement of windows, doors, door locks, minor roof repairs, flooring replacement, replacement of insulation, repairs to heating and cooling systems, and other minor repairs;

c. safety and access installations includes the installation of access ramps, safety grab bars in bathrooms;

d. Chore Services. Necessary services could include, but are not limited to heavy indoor and outdoor housework such as mold removal, drapery removal/cleaning/re-installation, carpet sanitization, floor stripping and re-conditioning, debris removal, tree-trimming, or other lawn clean-up. (Routine lawn care or housework is not an allowable expense.);

e. Information and Assistance (Information and Referral). This service assesses the client and determines what type of assistance is needed or makes provisions to provide this service. Most clients will only receive one unit of this service not to exceed \$25, which includes the agency placing this information into *SAMS* the existing client tracking system for GOEA;

f. Transportation. This service will provide door-to-door assistance for clients when there is no other comparable service available. The client would make a call to reserve transport for medical appointments, to merchants who provide basic needs and any location where an applicant has an appointment for services (example: food stamp office, Road Home Center, local Council on Aging, etc.);

g. Home Care. This service will provide supervision and companionship in a home setting, not an institution, to ensure the health and safety of a senior or an individual with onset disabilities who cannot be left alone;

h. Home Delivered Meals. Home-delivered meals are those services or activities designed to prepare and deliver one or more meals a day to an individual's residence in order to prevent institutionalization, malnutrition, and feelings of isolation;

i. Other Needs. This category will serve clients with a service not being provided by any other source.

#### I. Orleans Metro Housing

1. The Department of Social Services will contract with the Orleans Metro Housing (local non-profit) to assist hurricane-affected clients in Orleans Parish, in locating suitable affordable housing in Orleans Parish.

2. To be eligible for services, clients must have lived in Orleans Parish prior to the storms of 2005. There are no age or income or other requirements.

3. Services provided by Orleans Metro Housing, include: community outreach (through local churches, door-to-door in neighborhoods, etc.) to those in need of housing assistance in Orleans Parish, assisting clients in determining the types of housing that will best suit their needs and budget, matching up clients with available housing, maintaining an up-to-date inventory of sale and rental properties in the parish, referring clients to other non-profit home-buying programs if determined client has sufficient income, referring clients to agencies that provide financial assistance for housing and household expenses, negotiating with leasers or landlords on behalf of clients, and other related services.

AUTHORITY NOTE: Promulgated in accordance with Title XX of the Social Security Act and Department of Defense Appropriations Act (H.R. 2863).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 33:

#### **Family Impact Statement**

1. The Effect on the Stability of the Family. This should improve the stability of families as a vast variety of services are being provided to families in the hurricane affected areas. The services include medical services to the uninsured and underinsured, including mental health services, child care services, social and case management services to families in order to assist with identification of housing needs, development of individualized recovery plans, referral of families to available disaster relief services, case management follow-up with families and direct emergency assistance in human services.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. There is no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. This should improve the functioning of the family as the above delineated services are delivered.

4. The Effect on Family Earnings and Family Budget. As day care centers in hurricane affected areas are rebuilt, family earnings could improve as working parents will again have a place for their children to receive quality child care. As these families receive the services, they can rebuild their lives to continue to work or return to work.

5. The Effect on the Behavior and Personal Responsibility of Children. There is no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Families will be enabled to provide a safe and stable home with the appropriate services.

Any interested person may submit written comments regarding this proposed Rule to Marketa Garner Gautreau, Assistant Secretary, Office of Community Services, P.O. Box 3318, Baton Rouge, LA 70821. All comments must be received no later than 4:30 p.m. on Friday, August 17, 2007.

Ann Silverberg Williamson  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Allocation of Hurricane Relief Funds Supplemental Appropriation**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The purpose of this proposed rule is to provide for the allocation of Social Services Block Grant Funds (SSBG) from the Department of Social Services to the Department of Health and Hospitals, LSU Health Sciences Center, LSU Health Care Services Division, Louisiana Family Recovery Corp, Tulane University, Health Sciences Center, Governor's Office of Elderly Affairs, and the Department of Social Services.

The State of Louisiana received a total of \$229,901,534 in supplemental appropriation to SSBG funds in State Fiscal Year 2005-06 to assist with hurricane relief efforts. A total of \$60,308,740 was expended in SFY 05-06 and \$55,447,746 was expended in FY 06-07 to provide various disaster relief services. The remaining balance of \$105,145,048 is included in the agency's FY 07-08 appropriated for continuation of these services. The grant period for these funds expires September 30, 2009.

There are no savings to state or local governmental units.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no effect on revenue collections of state and local governmental units. The entire amount of Social Services Block Grant Funds was received by DSS in SFY 2005-2006.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This rule benefits all citizens of Louisiana that were affected by Hurricanes Katrina and Rita as it provides a wide variety of services that includes medical, mental health, child care, and individualized recovery plans.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Services will be provided to persons affected by the storm to enable them to return to work.

Marketa Garner Gautreau  
Assistant Secretary  
0707#056

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Social Services Office of Family Support**

#### **TANF—Domestic Violence Services and Homeless Initiatives (LAC 67:III.5509 and 5589)**

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 15, Temporary Assistance to Needy Families (TANF).

Pursuant to Act 17 of the 2006 Regular Session of the Louisiana Legislature, the agency will amend §5509 Domestic Violence Services and §5589 Homeless Initiative.

Section 5509 Domestic Violence Services is being amended to clarify services provided to victims of domestic violence and their children. This amendment will allow the

agency to provide community collaboration training for the purpose of educating the community regarding domestic violence and the available services to victims of domestic violence provided by the agency.

Section 5589 Homeless Initiative is being amended to clarify the definition of basic needs.

This Rule is effected by an Emergency Rule effective June 15, 2007, and published in the July issue of the *Louisiana Register*.

#### **Title 67**

### **SOCIAL SERVICES**

#### **Part III. Office of Family Support**

#### **Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives**

#### **Chapter 55. TANF Initiatives**

#### **§5509. Domestic Violence Services**

A. The Office of Family Support shall enter into Memoranda of Understanding or contracts to provide services for victims of domestic violence and their children, including rural outreach and community collaboration training for the purpose of educating attendees about domestic violence and the available services provided by the Department of Social Services including but not limited to TANF, Food Stamps, Child Care, and Employment Training.

B. - D. ...

E. Direct services that provide for basic needs and are provided in response to an episode of need or a specific crisis situation and are non-recurrent, such as but not limited to food, clothing, and shelter assistance, will not be provided beyond four months.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 46:231 and R.S. 36:474, HB 1 2006 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 33:

#### **§5589. Homeless Initiative**

A. Effective December 1, 2006, the Office of Family Support shall enter into contracts with public agencies, non-profit organizations, or for-profit organizations to end the cycle of homelessness in Louisiana by providing services to homeless families which include but are not limited to comprehensive case management, educational and employment opportunities for adult participants, community referrals, life skill modules, and housing options. Direct services that are provided in response to an episode of need or a specific crisis situation and are non-recurrent, such as but not limited to food, clothing, and shelter assistance, will not be provided beyond four months.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq., R.S. 46:231 and R.S. 36:474, Act 17, 2006 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:674 (April 2007), amended LR 33:

#### **Family Impact Statement**

1. What effect will this Rule have on the stability of the family? This amendment is to clarify the existing Rule and will have no further impact on stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children?

The Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule should have no impact on family functioning.

4. What effect will this have on family earnings and family budget? The Rule will have no effect on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? The Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

All interested persons may submit written comments through August 24, 2007, to Adren O. Wilson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA, 70804-9065.

A public hearing on the proposed Rule will be held on August 24, 2007, at the Department of Social Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-129, Baton Rouge, LA, beginning at 9:15 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Ann S. Williamson  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: TANF—Domestic Violence Services and Homeless Initiatives**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This rule proposes to amend §5509 Domestic Violence Services to clarify basic services provided to victims of domestic violence and their children and §5589 Homeless Initiative to clarify the definition of basic needs concerning homelessness.

There are no changes in services being offered under this rule; therefore, the only cost associated with this rule is the cost of publishing rulemaking, which is estimated to be \$160 for FY 07/08. This is a one-time cost that is routinely included in the agency's annual budget.

There are no savings to state or local governmental units

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this rule will have no effect on state or local revenue collections.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This rule will have no impact on the estimated costs of any persons or non-governmental groups. Families will continue to benefit economically from the resources provided (i.e., direct services to provide for basic needs that include food, clothing, and shelter assistance).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Adren O. Wilson  
Assistant Secretary  
0707#058

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Social Services  
Office of Family Support**

**TANF—Temporary Emergency Disaster Assistance Program (TEDAP)(LAC 67:III.5583)**

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 15, Temporary Assistance to Needy Families (TANF).

Pursuant to Act 16 of the 2005 Regular Session of the Louisiana Legislature, the agency will amend §5583, Temporary Emergency Disaster Assistance Program (TEDAP). The agency proposes to expand the income eligibility criteria of the TEDAP Program to 250 percent of the federal poverty level and to expand the list of allowable household establishment funds available to eligible families to include living accommodations, transportation, job skills or employment assistance, child care vouchers, non-medical substance abuse treatment, mental health services, utility assistance, property repair, household items, basic personal items and moving assistance.

This Rule was effected by a Declaration of Emergency effective May 1, 2007, and published in the May issue of the *Louisiana Register*.

**Title 67**

**SOCIAL SERVICES**

**Part III. Family Support**

**Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives**

**Chapter 55. TANF Initiatives**

**§5583. Temporary Emergency Disaster Assistance Program**

A. Effective October 26, 2005, the agency will enter into contracts to provide disaster emergency services to needy families with dependent children or pregnant women who are displaced because of disasters. The program will provide the following services:

1. services or benefits considered to meet on-going basic needs. These services shall not be provided for a period (in whole or in part) to exceed four months. Such services and benefits include, but are not limited to the provision of such items as basic personal items, household items, housing and utility assistance, living accommodations, transportation, job skills or employment assistance, child care vouchers, non-medical substance abuse treatment, mental health services, property repair, and moving assistance;

A.2. - B. ...

C. Eligibility for services is limited to needy families with minor dependent children, or minor dependent children

living with caretaker relatives within the fifth degree of relationship, or pregnant women:

1. ...

2. whose income is at or below 250 percent of the federal poverty level or who are categorically eligible because a member of the family receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), or Free or Reduced School Lunch.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 46:231 and R.S. 36:474, Act 16, 2005 Reg. Session, TANF Emergency Response and Recovery Act of 2005.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR:32:1617 (September 2006), amended LR 33:

**Family Impact Statement**

1. What effect will this Rule have on the stability of the family? The stability of the family should be positively impacted by this Rule as the program will provide nonrecurring, short-term benefits and services such as living accommodations, transportation, job skills or employment assistance, child care vouchers, non-medical substance abuse treatment, mental health services, utility assistance, property repair, household items, basic personal items and moving assistance to persons who were displaced by Hurricanes Katrina and Rita.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? The Rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? The family's earning and budget could be positively impacted by this Rule. Job skills development could result in better employment opportunities for those displaced persons participating in the program. Better employment opportunities could result in higher paying jobs and an increase in income.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no impact on the behavior and personal responsibility of the children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

All interested persons may submit written comments through August 24, 2007, to Adren O. Wilson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA, 70804-9065.

A public hearing on the proposed Rule will be held on August 24, 2007, at the Department of Social Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-129, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services

should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Ann S. Williamson  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**  
**RULE TITLE: TANF—Temporary Emergency Disaster  
Assistance Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This rule proposes to amend §5583, Temporary Emergency Disaster Assistance Program, to expand the income eligibility criteria from 200% to 250% of the federal poverty level, which will allow the agency to serve more families. This rule also expands the list of allowable household establishment funds available to eligible families to include living accommodations, utility assistance, basic personal items, household items, transportation, job skills or employment assistance, childcare vouchers, non-medical substance abuse treatment, mental health services, property repair, and moving assistance.

The agency received \$32,794,397 in emergency TANF funds in FY 05/06 to provide disaster related services to individuals affected by Hurricanes Katrina and Rita. Total expenditures were \$6,035,176 in FY 05/06 and \$15,648,409 for FY 06/07. The remaining balance of \$11,110,812 is included in the agency's FY 07/08 appropriation for continuation of these services. The agency is currently serving approximately 7,992 families and projects that an additional 2,702 families will be served in the remaining 3 months of the grant period, which expires September 30, 2007.

There are no savings to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this rule will have no effect on state or local revenue collections. The entire amount of emergency TANF funds was received in FY 05/06.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

The proposed rule benefits eligible families by providing disaster related services to assist them with recovery efforts.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

The proposed rule provides job training and skills development to help individuals realize better employment opportunities.

Adren O. Wilson  
Assistant Secretary  
0707#057

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

2008 Turkey Season (LAC 76:XIX.113-117)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the turkey rules and regulations for the 2008 season.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part XIX. Hunting and WMA Regulations**

**Chapter 1. Resident Game Hunting Season**

**§113. General and WMA Turkey Hunting Regulations**

A. General Regulations. Only gobblers (male turkeys) may be taken. Taking of hen (female) turkeys, including bearded hens, is prohibited. Still hunting only. Use of dogs, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzleloading shotguns, using shot not larger than #2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited. The running of coyote with dogs is prohibited in all turkey hunting areas during the open turkey season. No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys. A baited areas is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed. Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closures. No person hunting turkeys more than 200 yards from a baited area will be in violation of the turkey baiting regulation.

**B. Tags**

1. Prior to hunting turkeys, all turkey hunters, regardless of age or license status, must obtain turkey tags and have them in their possession while turkey hunting. Immediately upon killing a turkey, hunters must attach a carcass tag to the turkey before it is moved from the site of the kill and must document the kill on the turkey harvest report card. The date of kill and parish of kill must be recorded on the carcass tag. The tag must remain attached to the turkey while kept at camp or while it is transported to the domicile of the hunter or to a cold storage facility. Hunters who keep the carcass or meat at a camp must also comply with game possession tag regulations. Within 72 hours of the kill, the hunter must report the kill and record the validation number on the turkey harvest report card. Hunters may report turkeys by calling the validation phone number or using the validation web site.

2. Turkey hunters purchasing licenses by phone or internet will be given an authorization number and a LDWF identification number that will serve as their license and tags until the physical license and tags arrive by mail. Turkey hunters who have purchased a license with tags, but have not yet received their physical license and tags, must immediately tag their kill with a possession tag before moving it from the site of the kill. The authorization number and LDWF identification number must be recorded on the possession tag. Hunters must retain documentation of any

turkeys killed and upon receiving their physical tags and harvest report card, validate their kill as required in these regulations. The tags for turkeys killed prior to receiving the physical tags must be removed from the turkey harvest report card and discarded.

3. Tags removed from the turkey harvest report card prior to killing a turkey are no longer valid and if lost will not be replaced. Duplicate tags and turkey harvest report cards are available to replace lost report cards and attached tags. Hunters will be charged a fee for duplicate turkey harvest report cards and tags. Hunters that have killed a turkey prior to losing their remaining tag and harvest report card must remove and discard the duplicate tag to account for the original tag that was used and validated. Hunters must record any previously validated turkey on the duplicate turkey harvest report card.

C. Possession of Live Wild Turkeys. No person shall take live wild turkeys or their eggs from the wild. No person shall possess captive live wild turkeys, (*Meleagris gallopavo silvestris*, *M. g. osceola*, *M. g. intermedia*, *M. g. merriami*, *M. g. mexicana*) or their eggs, regardless of origin, without a valid game breeder license. No pen-raised turkeys from within or without the state shall be liberated (released) within the state.

D. Statewide Youth and Physically Challenged Season Regulations. Only youths younger than 16 years of age or hunters possessing a Physically Challenged Hunter Permit with wheelchair classification may hunt. Youth must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults accompanying youth may not possess a firearm or bow. Youths may possess only one firearm or bow while hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt. Only one gobbler per day may be taken and any gobbler taken by the hunter during this special season counts towards their season bag limit of 2.

#### E. WMA Turkey Hunting Regulations

1. WMAs with youth turkey hunts are closed to all activities except turkey hunting by authorized youth hunt participants and fishing on the day(s) of the youth hunt.

2. Self-Clearing Permits. All turkey hunts, including lottery hunts, are self-clearing. Hunters must check in daily by obtaining a permit from a self-clearing station prior to hunting. The self-clearing permit must be in the hunter's possession while hunting. Upon completion of each days hunt, the hunter must check out by completing and depositing the hunter report portion of the permit in the check-out box at a self-clearing station before exiting the WMA.

3. Lottery Hunts. All or portions of some WMA seasons are designated as lottery hunts and are restricted to hunters selected by pre-application lottery. To apply for these lottery hunts, a hunter must submit a completed official application form to the Baton Rouge office by the deadline printed on the application. A non-refundable fee of \$5 must

be sent with each application. Applicants for WMA youth hunts must be at least 8 years old on the day of the hunt. Applicants may submit only one application and may be selected for only one WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Hunters must abide by self-clearing permit requirements. Hunters chosen for WMA lottery hunts may be accompanied by one person. The person accompanying a lottery hunter shall not possess a firearm/bow or take a turkey, and must remain within a distance that allows normal voice contact with the lottery hunter at all times. Youths chosen for special youth only hunts will be guided by members of the Louisiana Chapter of the National Wild Turkey Federation. One person may accompany the youth and guide, but may not hunt.

4. WMA Physically Challenged Hunt (Wheelchair Confined). Open only to hunters with a Physically Challenged Hunter Permit with wheelchair classification. During this hunt, ATVs may be used by hunters on all designated ATV trails in accordance with the Physically Challenged Hunter Permit. Hunters must abide by self-clearing permit requirements.

#### 5. Rules Specific to Certain WMAs:

a. Bens Creek. No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

b. Sandy Hollow. No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

c. Sherburne. All turkeys taken must be checked at the WMA headquarters.

d. Tunica Hills (North Tract). Area closed to all users April 14-August 31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2263 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2375 (November 2002), LR 29:2512 (November 2003), LR 30:2874 (December 2004), LR 31:3167 (December 2005), LR 32:2272 (December 2006), LR 33:

#### §115. Turkey Hunting Areas, Seasons, and Bag Limits

A. Shooting Hours. One-half hour before sunrise to one-half hour after sunset.

B. Daily limit is one gobbler. Season limit is two gobblers. Turkeys taken on WMAs are part of the season bag limit. Only one turkey may be taken during WMA lottery hunts.

C. Turkey season will open in designated areas on the fourth Saturday in March. The Area A turkey season will be 30 consecutive days in length, the Area B turkey season will be 23 consecutive days in length, and the Area C turkey season will be 16 consecutive days in length. Wildlife Management Areas, National Forests, National Wildlife Refuges, and U.S. Army Corps of Engineers land may vary from this framework. Deviation from this framework may occur in those years when the fourth Saturday in March falls the day before Easter.

D. Statewide Youth Turkey and Physically Challenged Season on private lands shall be the weekend prior to the statewide turkey season.

E. Only those Wildlife Management Areas listed herein are open to turkey hunting. All other Wildlife Management Areas are closed.

F. 2008 Turkey Hunting Schedule

Area	Season Dates
A	March 21-April 20
B	March 21-April 13
C	March 21-April 6
Private Lands Youth and Physically Challenged Hunter (Wheelchair Confined) Hunt	March 15-16

G. 2008 Turkey Hunting Season—Open Only in the Following Areas

1. Area A

a. All of the following parishes are open:

- i. Beauregard;
- ii. Bienville;
- iii. Claiborne (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
- iv. East Baton Rouge;
- v. East Feliciana;
- vi. Grant (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
- vii. Jackson;
- viii. LaSalle;
- ix. Lincoln;
- x. Livingston;
- xi. Natchitoches (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
- xii. Rapides (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
- xiii. Sabine;
- xiv. St. Helena;
- xv. Tangipahoa;
- xvi. Union;
- xvii. Vernon (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
- xviii. West Baton Rouge;
- xix. West Feliciana (including Racourci Island);
- xx. Winn (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates).

b. Portions of the following parishes are also open:

- i. Allen—North of LA 104, west of LA 26 south of junction of LA 104 to US 190, north of US 190 east of Kinder, west of US 165 south of Kinder;
- ii. Avoyelles—That portion bounded on the east by the Atchafalaya River, on the north by Red River to the Brouillette Community, on the west by LA 452 from Brouillette to LA 1, on the south by LA 1, eastward to Hamburg, thence by the West Atchafalaya Basin Protection levee southward;
- iii. Calcasieu—North of I-10;
- iv. Caldwell—West of Ouachita River southward to Catahoula Parish line;
- v. Catahoula—South and west of the Ouachita River from the Caldwell Parish line southward to LA 8 at Harrisonburg, north and west of LA 8 from Harrisonburg to the LaSalle Parish line. ALSO that portion lying east of LA 15;

vi. Evangeline—North and west of LA 115, north of LA 106 from St. Landry to LA 13, west of LA 13 from Pine Prairie to Mamou and north of LA 104 west of Mamou;

vii. Franklin—That portion lying east of LA 17 and east of LA 15 from its juncture with LA 17 at Winnsboro;

viii. Iberville—West of LA 1. Exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;

ix. Jefferson Davis—North of US 190 from junction with LA 26 to Kinder, west of US 165 and north of I-10 west from junction of US 165;

x. Madison—That portion lying east of US 65 from East Carroll Parish line to US 80 and south of US 80. Also, all lands east of the main channel of the Mississippi River;

xi. Morehouse—West of US 165 from the Arkansas line to the junction of LA 140 at Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to US 165 at Bastrop, south of US 165 to junction of LA 3051 (Grabault Road) south of LA 3051 to junction of LA 138, west of LA 138 to junction of LA 134, north of LA 134 to the Ouachita Parish line;

xii. Ouachita—East of LA 143 from Union Parish line to US 80 in West Monroe, north of US 80 to LA 139, west of LA 139 to the Morehouse Parish line;

xiii. Pointe Coupee—All of the parish except that portion bounded on the north by LA Hwy. 1, from Innis to the junction of LA Hwy 417, on the west by LA Hwy. 417 southward toward McCrea, on the south by LA Hwy. 417 from McCrea to its junction with Delhi Lane, then by Delhi Lane to LA Hwy. 418, then LA Hwy. 418 northward to LA Hwy. 1 at Innis. Exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;

xiv. Richland—That portion south of US 80 and east of LA 17;

xv. St. Landry—That portion bounded on the west by the West Atchafalaya Basin Protection Levee and on the east by the Atchafalaya River. Exception: the Indian Bayou Area, see Federal Lands Hunting Schedule for Indian Bayou Area dates;

xvi. Upper St. Martin—All within the Atchafalaya Basin. Exceptions: Sherburne WMA and Indian Bayou Area, see WMA Turkey Hunting Schedule for special season dates on all state, federal and private lands within Sherburne WMA boundaries and see Federal Lands Hunting Schedule for Indian Bayou dates;

xvii. Tensas—That portion west of US 65 from the Concordia Parish line to its juncture with LA 128, north of LA 128 to St. Joseph; west and north of LA 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands east of the main channel of the Mississippi River.

2. Area B

a. All of the following parishes are open:

- i. Caddo;
- ii. DeSoto;
- iii. Red River;
- iv. St. Tammany;
- v. Washington.

- b. Portions of the following parishes are open:
  - i. Ascension—All east of the Mississippi River;
  - ii. Bossier—All open except that portion bounded on the north by I-20, on the west by LA 164, on the south by LA 164, and on the east by the Webster Parish Line;
  - iii. East Carroll—East of US 65 from Arkansas state line to Madison Parish line;
  - iv. Iberville—All east of the Mississippi River;
  - v. Webster—All open except that portion bounded on the north by I-20, on the east by U.S. 371, on the south by LA 164, and on the west by the Bossier Parish line (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates).

3. Area C

- a. All of the following parishes are open:
  - i. Concordia.
- b. Portions of the following parishes are open:
  - i. Caldwell—All east of the Ouachita River;
  - ii. Catahoula—All of the parish EXCEPT for that portion located in Area A;
  - iii. Franklin—West of LA 17 from the Richland Parish line southward to Winnsboro, west of LA 15 southward to the Catahoula Parish line;
  - iv. Richland—West of LA 17 from Franklin Parish line to Ringle Road, south of Ringle Road to Ferguson Road, south of Ferguson Road to Little Road, south of Little Road to Big Creek, east of Big Creek to Franklin Parish line;
  - v. Tensas—East and south of US 65 from Concordia Parish line to LA 128, south of LA 128 to St. Joseph, east and south of LA 605, 604 and 3078 northward to Port Gibson Ferry.

H. Wildlife Management Area Turkey Hunting Schedule

WMA	Non-Lottery Hunt Dates	Lottery Hunt Dates
Bayou Macon	None	April 5-6
Bens Creek	March 21-April 6	None
Big Lake	March 21-April 6	None
Bodeau	March 21-April 6	None
Boeuf	March 21-30	None
Clear Creek	March 31-April 20	March 21-23 March 29-30
Camp Beauregard	March 21-30	None
Dewey Wills		April 12-13
Fort Polk	March 21-April 20	None
Grassy Lake	March 21-April 6	None
Hutchinson Creek	March 21-April 20	None
Jackson-Bienville	March 21-April 6	None
Lake Ramsey	March 21-April 6	None
Little River	March 21-April 6	None
Loggy Bayou	None	April 12-13
Peason Ridge	March 21-April 20	None
Red River	March 21-April 6	None
Sabine	None	March 21-23 March 29-30
Sandy Hollow	March 21-April 6	None
Sherburne	March 27-30	March 21-23 March 24-26
Sicily Island	None	March 21-23 March 24-26 March 27-29 March 30-April 1 April 2-5

WMA	Non-Lottery Hunt Dates	Lottery Hunt Dates
Tangipahoa Parish School Board	March 21-April 20	None
Three Rivers	March 21-April 6	None
Tunica Hills South Tract	April 7-13	March 21-22 March 29-30 April 5-6
Tunica Hills North Tract	April 7-13	March 21-22 March 29-30 April 5-6
Union	None	April 5-6
Walnut Hills	March 21-April 20	None
West Bay	None	March 21-23 March 29-30

I. Wildlife Management Area Lottery Youth Hunts

WMA	Lottery Youth Hunt Date
Bens Creek	March 15
Big Lake	March 15
Fort Polk/Peason Ridge/ Calcasieu Ranger Dist.	March 15
Jackson-Bienville	March 15
Loggy Bayou	April 5
Sherburne	March 15-16
Sicily Island	March 15
Spring Bayou	March 15
Thistlethwaite	April 5
Tunica Hills	March 15
Union	March 29
West Bay	March 15

J. Wildlife Management Area Physically Challenged (Wheelchair Confined) Hunt

1. Jackson-Bienville WMA will be open April 12-18 to holders of valid Physically Challenged Hunter (Wheelchair Classification) Permits.

K. Federal Lands Turkey Hunting Schedule

1. Kisatchie National Forest (KNF) Turkey Hunting Schedule. Caney Ranger District, March 21-April 6; all remaining KNF lands, March 21-April 13 (including Catahoula and Red Dirt National Wildlife Management Preserves).

2. U.S. Army Corps of Engineers Turkey Hunting Schedule. Indian Bayou Area, March 15-16 physically challenged lottery only hunt, lottery hunt only on March 21-23 and March 24-26, non-lottery hunt March 27-30. Old River Control and Lock Areas, March 21-April 6.

3. National Wildlife Refuges. Bogue Chitto NWR, March 21-April 13; Lake Ophelia NWR, March 21-April 3 hunt ends at 12:00 p.m. each day; Tensas NWR, March 15-16 (youth only), March 21-April 5; Upper Ouachita NWR, March 15 (youth lottery only).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2264 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2376 (November 2002), LR 29:2512 (November 2003), LR 30:2875 (December 2004), LR 31:3167 (December 2005), LR 32:2272 (December 2006), LR 33:



**§117. 2007 Wildlife Management Area Turkey—  
Hunting Regulations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 25:2265 (November 1999), amended LR 26:2636 (November 2000), LR 27:2272 (December 2001), LR 28:2377 (November 2002), LR 29:2514 (November 2003), LR 30:2876 (December 2004), LR 31:3169 (December 2005), LR 32:2274 (December 2006), repealed LR 33:

**Family Impact Statement**

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed Rule to David Moreland, Administrator, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than September 6, 2007.

Patrick C. Morrow  
Vice-Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: 2008 Turkey Season**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Establishment of turkey hunting regulations is an annual process that is carried out using existing staff and funding levels. No increase or decrease in costs to state or local

governmental units associated with implementing the proposed rule is anticipated.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections from the sale of wild turkey licenses in Fiscal Year 2008 are estimated to be \$59, 919. Failure to adopt this rule would result in no turkey hunting seasons and the subsequent loss of state revenue collections from the sale of turkey licenses. In addition, loss of tax revenues of an undeterminable amount may occur to both state and local governmental units from the foregone sales of supplies and equipment used in the pursuit of turkeys.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

Approximately 18,000 resident and nonresident sportsmen and an undeterminable number of sporting good distributors, retail outlets and landowners are directly affected by the proposed rule. Turkey hunters in Louisiana generate income to retail outlets, landowners and commercial businesses through hunting lease payments and purchase of related outdoor equipment and associated items (food, fuel, clothing, shotgun shells, etc.). These land and business owners will be negatively impacted if turkey hunting seasons, rules and regulations are not established and promulgated. The actual amount of this impact is not estimable at this time. Resident and nonresident turkey hunters will be required to purchase a Louisiana wild turkey license in addition to their basic and big game hunting licenses, provided they are not exempt from purchasing a turkey license or do not already possess a license that includes wild turkey hunting privileges. The costs incurred by turkey hunters for the purchase of wild turkey licenses will be \$5.50 for residents, non-resident active military, non-resident students and non-resident Louisiana natives, and \$20.50 for other non-residents.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

Hunting supports approximately 9,475 full and part-time jobs in Louisiana, a portion of which are directly related to turkey hunting. Failure to establish turkey hunting seasons may have a negative impact on some of these jobs. It is anticipated that there will be little or no effect on competition in both the public and private sectors resulting from the proposed action.

Wynnette Kees  
Deputy Undersecretary  
0707#036

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

# Administrative Code Update

CUMULATIVE: JANUARY – JUNE 2007

LAC Title	Part.Section	Effect	Location LR 33 Month Page	LAC Title	Part.Section	Effect	Location LR 33 Month Page
4	IX.303	Amended	May 844	33	I.3931	Amended	Apr. 640
7	V.Chapter 23	Adopted	Mar. 422		III.Chapter 13	Adopted	May 821
	XIII.Chapter 3	Adopted	June 990		III.1502	Adopted	June 1010
	XV.132	Adopted	Jan. 34		III.1503,1507,1511,1513	Amended	June 1010
	XXV.101,105	Amended	Jan. 39		III.2103	Amended	Mar. 446
	XXXV.501,503,505	Adopted	Jan. 34		III.2805-2813	Amended	Apr. 642
	XXXV.511	Adopted	Jan. 37		V.105	Amended	Mar. 449
	XXXIX.1111,1113	Adopted	Feb. 249		V.106,199	Adopted	Mar. 449
13	III.303,311	Amended	Jan. 44		V.1107	Amended	Jan. 88
	III.Chapter 17	Adopted	Jan. 41		V.1107	Repromulgated	Feb. 281
16	III.701	Adopted	Mar. 466		V.3099	Amended	Apr. 640
22	I.313	Amended	May 851		V.4999	Amended	Mar. 445
	I.340	Adopted	Apr. 665		V.4999	Amended	May 824
	I.1101	Adopted	May 855		V.4999	Amended	June 1015
	I.Chapter 13	Adopted	Apr. 666		V.5136	Repealed	Jan. 88
25	XI.Chapter 5	Adopted	Feb. 249		V.5147	Adopted	Mar. 449
28	IV.101,301,503	Amended	Mar. 439		V.11101,11103,11105	Adopted	May 859
	IV.301,1103	Amended	Jan. 86		V.Chapters 301-313	Amended	Mar. 466
	IV.505	Amended	Jan. 83		V.30588	Adopted	Mar. 466
	IV.703,705,803,805	Amended	Mar. 435		VII.Chapters 1,3,5,7,9,11,30	Amended	June 1017
	IV.1301,2103,2105,2109,2303	Amended	Mar. 439		VII.105,313	Repealed	June 1017
	V.101,103	Amended	Mar. 435		VII.109,110,114,505,520	Repromulgated	June 1017
	VI.107,301,309,311	Amended	Mar. 443		VII.112,117,401,403,405,407	Adopted	June 1017
	VII.101,103,113	Amended	Mar. 444		VII.501,503,507,508,509,522	Adopted	June 1017
	XLL.1301	Adopted	Mar. 434		VII.801,803,805,1301,1303,1305	Adopted	June 1017
	XXXIII.301,303,319,503,723	Amended	Apr. 636		VII.901,903,905,907,1401,1403	Repromulgated	June 1017
	XXXIII.2001	Adopted	Apr. 636		VII.1007,1009,3003,3013	Repealed	June 1017
	LXXXIX.2301	Amended	May 817		VII.1399,3009,3017	Adopted	June 1017
	LXXXIII.301,603,708	Amended	Mar. 423		VII.1405,1501,1503,1505,3011	Repromulgated	June 1017
	LXXXIII.307,409,515,703-707	Amended	Feb. 252		VII.10505,10519,10521,10533	Amended	Jan. 89
	LXXXIII.3905,4001,4527	Amended	Feb. 252		IX.Chapter 11	Amended	May 826
	LXXXIII.4302	Adopted	Apr. 634		IX.1105,1109,1113	Amended	Mar. 455
	LXXXIII.4310,4311,4315,4503	Amended	Apr. 634		IX.2301,4901,4903	Amended	Apr. 640
	XCVII.905	Amended	Mar. 434		XV.102,361,399	Amended	June 1016
	CXL.105-109,305-311,312	Amended	Feb. 255		XV.322,399,607	Amended	Mar. 448
	CXL.111,1801,2303-2323	Adopted	Feb. 255		XV.1517	Amended	Apr. 640
	CXL.305,1901	Amended	Mar. 424	35	I.309	Amended	May 844
	CXL.313-315,501,511,2301	Amended	Feb. 255		I.1733	Amended	May 845
	CXL.1701,2001	Amended	Feb. 265		I.1791	Amended	May 845
	CXL.1703-1717,2003-2027	Adopted	Feb. 265		I.1720	Amended	May 845
	CXL.1709-1719	Adopted	June 991		XIII.11515,11517	Amended	Feb. 282
	CXL.1721-1729	Repromulgated	June 991	37	XIII.Chapter 101	Amended	Jan. 101
	CXL.1903-1917	Adopted	Mar. 424		XIII.Chapter 119	Adopted	Mar. 464
	CXL.2701,3305,3307,3501	Amended	Feb. 255	40	I.Chapters 55 and 57	Amended	Apr. 652
	CXL.3306,3509	Adopted	Feb. 255		I.5809-5813,5817-5819	Amended	Apr. 652
	CXL.3306,3307	Amended	June 991		I.5815,5824,5927	Adopted	Apr. 652
	CXV.337,1121	Amended	Mar. 429		I.5831,5835,5901,5905,5909	Amended	Apr. 652
	CXV.501	Amended	Mar. 431		I.5933,5955,5961,5963	Amended	Apr. 652
	CXV.2301,2319,2321,2357,2363	Amended	Mar. 429		I.6001-6007,6209-6211	Amended	Apr. 652
	CXV.2319	Amended	Mar. 432		I.6009,6201	Repealed	Apr. 652
	CXV.2347	Amended	May 817		I.Chapters 61,63,65,66	Amended	Apr. 652
	CXV.2373-2385,3113	Amended	Feb. 277	42	VII.2325,2927	Amended	May 856
	CXV.2375	Amended	Feb. 276		VII.4203	Amended	Mar. 488
	CXXXI.225,231	Amended	May 821		IX.2919,4103	Amended	May 856
	CXXXI.240	Adopted	May 817		XI.2407	Amended	May 856
	CXXXI.703,705,707	Amended	May 817		XIII.2325,2927	Amended	May 856
	XCVII.905	Amended	Mar. 434	43	XIII.Chapters 3-5,9-15,2103	Amended	Mar. 473
	CXXXI.219,221,223	Amended	Mar. 432		XIII.2142	Adopted	Mar. 473
	CXXXI.305,309	Amended	Mar. 433		XIII.Chapters 27-33,51,61-63	Amended	Mar. 473
	CXXXI.403	Amended	Feb. 280		XIX.Chapter 6	Adopted	Apr. 660
	CXXXI.408	Adopted	Feb. 281	46	XXXIII.306,415,419,706,710	Amended	May 846
	CXXXIII.Chapters 1-31	Adopted	Jan. 44		XXXIII.1506	Amended	May 846
32	III.701	Amended	Apr. 644		XXXVII.1109	Adopted	Feb. 283
	III.701	Amended	June 1122		XLI.531	Amended	Feb. 283
	V.701	Amended	Apr. 644		XLV.412	Adopted	Jan. 91
	V.701	Amended	June 1122		XLVII.1705	Amended	Jan. 92
	IX.701	Amended	Apr. 644		XLVII.3328	Adopted	Mar. 460
	IX.701	Amended	June 1122		XLVII.3329	Amended	Mar. 460
33	I.Chapter 12	Adopted	Mar. 447		XLVII.3515	Amended	June 1123
	I.Chapter 18	Adopted	June 1013		LIII.343,351,505,507,519,705	Amended	June 1124
	I.2001,2305	Amended	Jan. 88		LIII.361,514,523,707	Adopted	June 1124

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			Month	Page				Month	Page
46	LIII.1101,1115,1135,1503,1505	Amended	June	1124	58	I.4501,4503	Adopted	Jan.	113
	LIII.1117	Repealed	June	1124		III.101	Amended	June	1151
	LIII.1139,1141,1525	Adopted	June	1124	61	I.1122	Amended	Feb.	295
	LIII.1707,1907,2307	Amended	June	1124		I.1140	Amended	May	860
	LIII.2519,2523,2543,2549	Amended	June	1124		I.1401	Amended	May	861
	L.VII.517	Amended	Apr.	665		I.5302	Amended	May	860
	L.XIII.403	Amended	Mar.	458		III.2115	Adopted	Jan.	111
	L.XIII.Chapter 6	Adopted	Apr.	647		V.101,307,309,703,901,907,1103	Amended	Mar.	489
	L.XIII.900	Adopted	Apr.	648		V.705	Adopted	Mar.	489
	L.XIII.901	Amended	Apr.	648		V.1307,1503,2501,2503	Amended	Mar.	489
	L.XIII.Chapter 10	Adopted	Mar.	459		V.2907	Repealed	Mar.	489
	L.XXX.501	Adopted	Apr.	648		V.3101,3103,3105	Amended	Mar.	489
	L.XXXV.Chapter 4	Amended	Apr.	648		V.3106,3107	Adopted	Mar.	489
	L.XXXV.Chapter 4	Repromulgated	May	847		V.Chapter 35	Amended	Mar.	489
				V.3701,3702	Adopted	Mar.	489		
48	I.16101	Repromulgated	June	1135	67	III.2303	Amended	Mar.	508
	I.16103-16121	Amended	June	1135		III.2523	Adopted	Mar.	508
	I.4001	Amended	Jan.	100		III.2547	Adopted	Apr.	675
	I.Chapter 92	Amended	Jan.	95		III.5103,5107,5109	Amended	Mar.	506
	I.9469,9515	Amended	Feb.	284		III.5801-5805	Adopted	Apr.	674
	I.9517-9521	Repealed	Feb.	284		III.5581	Amended	Apr.	675
50	I.2915	Adopted	June	1139	III.5589	Adopted	Apr.	674	
	I.8341-8349	Adopted	Mar.	463	III.5589	Adopted	Apr.	674	
	VII.32901,32903	Amended	Mar.	461	VII.Chapter 11	Amended	June	1145	
	IX.305	Adopted	Mar.	462	70	I.1101	Adopted	Mar.	533
	XV.6901	Adopted	June	1138		III.127,134,135,139,141,143	Amended	Mar.	530
	XV.6903	Amended	June	1138		IX.101	Amended	Mar.	510
	XV.6905	Adopted	June	1138		IX.301-317,501-599,601-705	Repealed	Mar.	510
	XV.7701,7703,7707	Amended	Apr.	651		IX.901-909,911-937,1101-1111	Amended	Mar.	510
	XXVII.571	Adopted	Mar.	462		IX.911-917	Repealed	Mar.	510
	XXIX.971,981	Repealed	Jan.	100	72	I.Chapter 3	Adopted	Mar.	509
				I.Chapter 5		Adopted	Mar.	510	
51	II.503,505	Amended	Jan.	93	73	I.1201,1216	Amended	May	863
	III.101-111,303	Amended	Apr.	650		76	III.335	Adopted	Mar.
	IX.305,323	Amended	May	849	V.115		Amended	June	1152
	XXIII.305,1307,1311	Amended	May	848	V.123		Amended	Feb.	297
	XXIII.501,505,1301	Amended	May	850	V.321	Amended	June	1151	
XXIII.1901,1911,3505	Amended	May	848	V.701	Amended	Apr.	677		
55	V.103,303	Amended	Apr.	671	V.701	Amended	Apr.	677	
	V.519	Adopted	Apr.	645	V.701	Amended	Apr.	677	
	VI.Chapters 1-11	Adopted	Feb.	290	VII.137	Amended	May	865	
	IX.Chapters 1 and 15	Amended	June	1139	VII.329	Amended	May	864	
	XXI.Chapters 1 and 3	Adopted	Apr.	645	VII.335	Amended	June	1156	
56	III.901	Adopted	Mar.	535	VII.367	Amended	Jan.	113	
					VII.521	Adopted	Feb.	297	
58	I.301,501	Amended	June	1151	VII.1101	Adopted	Mar.	536	
	I.1101,1103	Amended	Apr.	676	XI.103	Amended	Mar.	537	
	I.2301	Amended	Jan.	112	XI.303	Adopted	Jan.	114	
	I.3519	Repealed	Apr.	676	XIX.103	Amended	Jan.	115	
	I.4131	Amended	June	1150					

# Potpourri

## POTPOURRI

### Department of Economic Development Office of Business Development Office of Entertainment Industry Development

Public Hearing—Substantive Changes  
Motion Picture Production and Infrastructure  
Tax Credit Programs (LAC 61:I Chapter 16)

The Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, pursuant to the authority of R.S. 47:6007 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., published a Notice of Intent on pages 681-687 of the April 2007 *Louisiana Register* to establish standards for Louisiana Entertainment Industry Tax Credit Programs, specifically the Motion Picture Production and Infrastructure Tax Credit Programs. After considering all comments and requests, the Office of Entertainment Industry Development has revised the original proposed Rule.

In accordance with R.S. 49:968(H)(2), a meeting for the purpose of receiving the presentation of oral comments will be held on August 23, 2007, at the Department of Economic Development, 1051 N. Third St., Baton Rouge, LA.

Interested persons should submit written comments on the proposed changes to Christopher Stelly through the close of business on August 22, 2007, at Post Office Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton Rouge, LA 70802. Comments may also be submitted by email to [cstelly@la.gov](mailto:cstelly@la.gov) or by fax to (225) 342-5554.

#### Title 61

#### REVENUE AND TAXATION

#### Part I. Taxes Collected and Administered by the Secretary of Revenue

#### Chapter 16. Louisiana Entertainment Industry Tax Credit Programs

#### Subchapter A. Louisiana Motion Picture Investor Tax Credit Program

#### §1601. Purpose and Description of Louisiana Motion Picture Investor Tax Credit Program

A. The purpose of this program is to encourage the development in Louisiana of a strong capital and infrastructure base for motion picture film, videotape, digital, and television program productions, in order to achieve an independent, self-supporting industry in this state, and to encourage development of a Louisiana film, video, television and digital production and post-production infrastructure with state-of-the-art facilities.

B. Approvals of applications shall not result in a duplication of tax credits for the same assets. The tax credit granted for qualified expenditures on tangible assets shall not, in the aggregate, exceed the maximum applicable tax credit rate multiplied by the acquisition cost of the asset, as reflected in the first approved application for an investor tax credit.

#### C. General Description of the Louisiana Motion Picture Investment Tax Credit

1. Louisiana Motion Picture Investment Tax Credit. The Louisiana Motion Picture Investment Tax Credit is comprised of a percentage of an investor's base investment made and expended in the state in either a state-certified production or, for applications received prior to August 1, 2007, a state-certified infrastructure project.

2. Infrastructure Portion of the Investment Tax Credit. Additionally, for applications received prior to August 1, 2007, each taxpayer whose base investment totals greater than \$300,000 will be allowed an additional credit of 15 percent of the base investment, for an overall total of 40 percent, made by that taxpayer that is expended on a state-certified infrastructure project.

3. Infrastructure Portion of the Investment Tax Credit. For applications received after August 1, 2007, and until January 1, 2009, each taxpayer whose base investment totals greater than \$300,000 will be allowed a credit of 40 percent of the base investment made by that taxpayer that is expended on a state-certified infrastructure project.

4. Payroll Portion of the Investment Tax Credit. Finally, each investor whose base investment includes expenditures on payroll for Louisiana residents employed in connection with a state-certified production shall be allowed an additional credit of 10 percent of such payroll.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industries Development, LR 33:

#### §1602. Definitions

A. The following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

*Allocatee*—an individual or entity that received an allocation of investment tax credits.

*Allocator*—an individual or entity that makes an allocation of investment tax credits.

*Base Investment*—the actual investment made and expended by:

a. a state-certified production in the state as production expenditures incurred in this state that are directly used in state-certified production or productions;

b. a person in the development of a state-certified infrastructure project. Infrastructure Expenditures shall include, but are not limited to, expenditures for infrastructure project development, film and television production spaces, post-production equipment, facilities, equipment for distribution companies domiciled within Louisiana, transportation equipment, land acquisition and closing costs, construction costs, design and professional consulting fees associated with the state-certified infrastructure project, furniture, fixtures, equipment, and financing costs. Infrastructure Expenditures shall not include indirect costs, any amounts that are later reimbursed by a third party, any costs related to the allocation or transfer of tax credits, or any amounts that are paid to persons or

entities as a result of their participation in profits from the exploitation of the State-certified Infrastructure Project.

*Commissioner*—the Commissioner of the Division of Administration.

*Department*—the Louisiana Department of Economic Development, or its successor.

*Developer*—a person in the development of a state-certification infrastructure project.

*Director*—the Director of the Louisiana Office of Entertainment Industry Development (the *office*).

*Division*—the Division of Administration.

*Expended by a State-Certified Production in the State*, for purposes of R.S. 47:6007(B)(1)—

a. in the case of tangible property, property which is acquired from a source within the state;

b. and in the case of services, shall mean procured from within the state and performed in the state;

c. that are provided by an individual or entity duly qualified to do business in Louisiana and offering such goods or services for sale or lease.

*Louisiana Resident*—residency shall be established if in exchange for employment with a motion picture production company the individual agrees in writing to file a Form IT 540, as a full year Louisiana resident, or Form IT 540B, as a part year resident, for his taxable year employed by the motion picture production company and to pay the Louisiana income tax shown thereon. *Resident* or *resident of Louisiana* means a natural person and, for the purpose of determining eligibility for the tax incentives, any person domiciled in the state of Louisiana and any other person who maintains a permanent place of abode within the state and spends in the aggregate more than six months of each year within the state.

*Office*—the Office of Entertainment Industry Development.

*Payroll Expended on Louisiana Residents*—the full amount of salary, wages, or other compensation and related benefits actually paid to or on behalf of any Louisiana resident that renders services to the production within the state of Louisiana including union pension and welfare contributions and retirement benefits but shall not include federal and state taxes imposed solely on the employer, for example, the employer's share of Social Security.

*Procured*—shall apply to goods and services that are obtained from a source that is domiciled and resides in Louisiana that are actually contracted by the production company.

*Production Facility*—a physical facility that provides the goods and services necessary for completing the major activities of motion picture production. State of the art facilities should be built and equipped in accordance with motion picture industry standards.

*Secretary*—the Secretary of the Department of Economic Development.

*Slate of Productions*—more than one state-certified production being financed, or produced by or on behalf of the same motion picture production company or an affiliate grouped together in such a way that the group meets the minimum in-state spend of \$300,000. If one project in the group is over \$300,000; then that project shall be considered an individual project and no additional projects shall be added to that so as to earn tax credits for the slate.

*State-Certified Infrastructure Project*—an infrastructure project that meets the definition of a *production facility* and is approved by the Office of Entertainment Industry Development, the Department of Economic Development and the Division of Administration. The term *infrastructure project* shall not include movie theaters or other commercial exhibition facilities.

*State-Certified Production*—a production approved by the Office of Entertainment Industry Development and the Department of Economic Development produced by a motion picture production company domiciled and headquartered in Louisiana which has a viable multi-market commercial distribution plan.

*Transferee*—an individual or entity that receives a transfer of investor tax credits.

*Transferor*—an individual or entity that makes a transfer of an investor tax credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industries Development, LR 33:

### **§1603. Application for the Motion Picture Investor Tax Credit**

A. An applicant for the motion picture investor tax credit shall submit an application for initial certification to the Office of Entertainment Industry Development that includes all of the information required by R.S. 47:6007(D)(2)(a); and an application fee payable to the Department of Economic Development or the State of Louisiana shall be submitted with the application determined as provided in R.S. 47:6007(D)(2)(b).

B. Rules of Application. The investor tax credit authorized by R.S. 47:6007(C)(1) may be earned, transferred, allocated, and claimed as follows.

1. Individuals or entities (other than motion picture production companies) may earn investor tax credits pursuant to R.S. 47:6007(C)(1).

2. The tax credits cannot be applied against a tax or transferred until the expenditures are audited and certified by the department, office and, in the case of infrastructure projects, the division.

3. Once investor tax credits are earned by an individual or entity, such individual or entity and any subsequent transferee may transfer or allocate the investor tax credits in one or more of the following ways:

a. transfer—by transferring or selling all or a portion of the investor tax credits to any individual or entity; or

b. allocation—if the investor tax credits are earned by, or allocated or transferred to, an entity not taxed as a corporation the entity may allocate the credit by issuing ownership interests to any individuals or other entities on such terms that are agreed to by the relevant parties and in accordance with the terms of the allocating entity's operating agreement or partnership agreement which terms may result in the allocation of up to 100 percent of the investor tax credits to any individual or entity regardless of the federal tax treatment of the allocation:

i. the allocating entity:

(a) may be treated as a "partnership" for federal or state tax purposes; or

(b). may be treated as an entity that is disregarded as an entity separate from its owners for federal or state tax purposes, and in which case, each holder may agree that it will not treat the allocating entity as a "partnership" or itself as a "partner" or the ownership interest in the allocating entity as a "partnership interest" for federal tax or state tax purposes.

4. A state-certified production or a state-certified infrastructure project earns tax credits at the time the qualifying expenditures are made and audited pursuant to these rules. However, credits can not be applied against a tax or transferred until the expenditures are certified by the Department of Economic Development, the Office of Entertainment Industry Development and in the case of infrastructure tax credits, also by the Division of Administration.

5.a. An owner of tax credits may apply the credits to offset an outstanding Louisiana income tax liability for any tax year beginning in the year that the investor initially earned the tax credit or in any year thereafter within the 10-year carry-forward period.

b. In the case of tax credits owned (held) by an entity not taxed as a corporation, the credits shall be deemed to flow through or be allocated to partners or members at the end of the tax year in which the entity acquired the credits unless the partnership or membership agreement provides specifically for an earlier distribution during the tax year.

6. Any individual or entity shall be allowed to claim the investor tax credit authorized by R.S. 47:6007(C)(1) against its Louisiana income tax liability:

a. whether or not any such individual is a Louisiana resident; and

b. whether or not any such entity is domiciled in Louisiana, organized under Louisiana law, or headquartered in Louisiana.

7. An Investor Tax Credit, in the hands of the taxpayer that earned the credit or received it by flow-through, cannot be used to eliminate any penalties and interest on overdue income taxes from prior tax years. However, an Investor Tax Credit that is purchased is treated as property and can be applied to penalties and interest on overdue income taxes from prior tax years pursuant to R.S. 47:1675(H)(1)(c). Penalties and interest will continue to accrue until the taxes on which such penalties and interest are accruing are paid. The date of payment is the date that the Louisiana Department of Revenue receives a return from a taxpayer on which the Investor Tax Credits are claimed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industries Development, LR 33:

#### **§1604. Certification of Investor Tax Credits**

A. Preliminary Certification. The office and the department shall issue preliminary certifications of productions and infrastructure projects. A preliminary certification shall be issued as follows.

1. To obtain the preliminary certification from the office and the department for a "state-certified infrastructure project" or for a "state-certified production or slate of productions" as required by R.S. 47:6007(B)(9) and (10), the applicant must submit a written request to the director and the secretary of the department requesting approval of the

production as a "state-certified production" or a state of the art production facility as a "state-certified infrastructure project" and setting forth the following information:

a. working title of the production or infrastructure project for which approval is requested;

b. name of the requesting production or infrastructure company;

c. name, telephone number, e-mail address and attesting signature of the requesting production or infrastructure company's contact person;

d. approximate beginning and ending date of production or construction in Louisiana;

e. Louisiana office address;

f. telephone number of requesting company's Louisiana office address;

g. estimated total production-related costs of production or total costs associated with the infrastructure project for which approval is requested;

h. estimated total amount of production-related costs to be expended in Louisiana in connection with the production for which approval is requested;

i. estimated percentage of each of pre-production, production, and post-production work to be performed in Louisiana in connection with the production for which approval is requested;

j. estimated total payroll to be paid by the requesting production company to Louisiana residents employed by the requesting production company in connection with the production for which approval is requested, excluding any employee to be paid in excess of \$1 million;

k. detailed preliminary budget;

l. for production seeking approval, a copy of script (including synopsis) will be made available to OEID and subsequently returned to the applicant and for infrastructure projects, a detailed business plan outlining the exact costs of what is proposed for the project;

m. list of principal creative elements such as principal cast, producer, director, music producer, and music supervisor; and

n. facts sufficient for the office and the department to determine each of the following:

i. that the requesting production company is a motion picture production company as defined in R.S. 47:6007(B)(5);

ii. that the requesting production company is domiciled and headquartered in Louisiana; and

iii. that the requesting production company has either a viable multi market distribution plan or a signed distribution agreement with either a major theatrical exhibitor, television network or cable television programmer for distribution of the production for which approval is requested.

2. Any applicant requesting certification of a production or an infrastructure project is required to reimburse the Office of Entertainment Industry Development and the Department of Economic Development for any additional audits required in relation to granting the credit.

3. The office and the department shall issue their written approval of a project as a "state-certified infrastructure project" or of a production as a "state-certified production" after receiving a complete application, all

supporting documents necessary to make a determination and the application fee with respect to such project or production that complies with these rules. In the alternative, if the office and the department determine that a request for approval of a project as a "state-certified infrastructure project" or of a production as a "state-certified production" received from a developer or production company is not in compliance with these rules, after receiving such request, the office and the department shall request in writing from the requesting developer or production company any information necessary in their determination for such request to comply with these rules. Upon receiving all of the requested additional information in writing from the developer or production company, and if the office and the department determine that the request for approval with respect to such project or production complies with these rules, the office and the department shall issue to the requesting developer or production company their written approval of the project as a "state-certified infrastructure project" or of a production as a "state-certified production."

4. For state-certified productions, the initial certification shall be effective for a period 12 months prior to and 12 months after the date of initial certification, unless the production has commenced, in which case the initial certification shall be valid until the production is completed.

#### B. Certifications

1. Prior to any certification of the expenditures of a state-certified production or state-certified infrastructure project and the issuance of any investor tax credits, the motion picture production company, with respect to state-certified productions, and the developer, with respect to state-certified infrastructure projects, shall submit to the Office of Entertainment Industry Development a cost report of production expenditures or infrastructure expenditures audited and certified by an independent certified public accountant as determined this rule. Either the Department of Economic Development or the Department of Revenue may audit the cost report submitted by the motion picture production company or developer. The following procedures set forth minimum standards for acceptability of the audit to be performed by a certified public accountant. The certified public accountant's report shall at a minimum, meet the following requirements.

a. The auditor auditing the report shall be a certified public accountant licensed in the state of Louisiana and shall be an independent third party, not related to the producer or developer or any known potential investor eligible for tax credits.

b. The auditor's opinion must be addressed to the party who has engaged the auditor (e.g., directors of the production company or developer, or the producer of the production).

c. The auditor's name, address, and telephone number must be evident on the report.

d. The auditor's opinion must be dated as at the completion of the audit fieldwork.

e. The audit shall be performed in accordance with auditing standards generally accepted in the United States of America.

f. The auditor shall have demonstrated sufficient knowledge of accounting principles and practices generally recognized in the motion picture industry.

2. After receiving a written request from an investor for certification of expenses and upon certification of the expenditures by the Office of Entertainment Industry Development, the Department of Economic Development and the Division of Administration (for infrastructure tax credits), the office shall issue one original certificate of ownership of such investor signed by the director reflecting the investor's name, the dollar amount of investor tax credits earned by the investor pursuant to R.S. 47:6007(C) through the date of such request, the calendar or fiscal year in which the investor tax credits were earned by the investor, the state-certified infrastructure project or the state-certified production with respect to which the investor earned the investor tax credits, and the identifying number assigned to such state-certified infrastructure project, or state-certified production.

3. If the investor tax credits evidenced by a certificate of ownership are allocated, sold or transferred or allocated as provided herein, then concurrently with the submission of the notification required by R.S. 47:6007(C)(4), the transferor shall submit to the office the original certificate of ownership evidencing the investor tax credits being transferred or allocated. After receiving the original certificate of ownership evidencing the investor tax credits being transferred or allocated, the office shall issue to each transferee or allocatee indicated in the transferor's or allocator's notification a certificate of ownership signed by the director reflecting such transferee's or allocatee's name, the dollar amount of investor tax credits transferred or allocated to the transferee or allocatee, the calendar year in which the investor tax credits were originally earned by an investor pursuant to R.S. 47:6007(C), the state-certified infrastructure project or the state-certified production with respect to which such investor earned the investor tax credits, and the identifying number assigned to such state-certified infrastructure project or state-certified production. If the certificate of ownership that the transferor or allocator submits with its notification of transfer or allocation evidences more investor tax credits than actually transferred or allocated by the transferor or allocator, then the office shall also issue a certificate of ownership to the transferor or allocator signed by the director reflecting the transferor's or allocator's name, the transferor's or allocator's remaining investor tax credit balance, the calendar or fiscal year in which the investor tax credits were originally earned by an investor pursuant to R.S. 47:6007(C), the state-certified production with respect to which such investor earned the investor tax credits, and the identifying number assigned to such state-certified production. Any person or entity engaged in the business of buying and reselling tax credits may elect to maintain its certificate of ownership on file with the office, such that it need not surrender, and have reissued, its certificate of ownership each time it sells a tax credit. In such cases, the office will issue comportsing certificates of ownership to transferees or allocates designated by the transferor or allocator in writing until such time as the tax credits represented in the transferor's or allocator's original certificate have been exhausted.

4. Any taxpayer claiming investor tax credits against its Louisiana income tax liability shall submit to the Louisiana Department of Revenue with its Louisiana income tax return for the year in which the taxpayer is claiming the

investor tax credits, an original certificate of ownership issued by the office pursuant to this rule evidencing the dollar amount of the investor tax credits being claimed; provided, however, if a taxpayer is claiming an amount of investor tax credits less than that evidenced by the certificate of ownership, then, concurrently with filing its Louisiana tax return, such taxpayer shall request that the office issue to it a certificate of ownership evidencing the amount of investor tax credits to be claimed and a certificate of ownership evidencing the balance of such taxpayer's investor tax credits. After receipt of such request, the office shall issue the certificates of ownership signed by the director reflecting, in addition to the amount of investor tax credits, the taxpayer's name, the calendar or fiscal year in which the investor tax credits were originally earned by an investor pursuant to R.S. 47:6007(C), the state-certified production with respect to which such investor earned the investor tax credits, and the identifying number assigned to such state-certified production.

5. The failure of the office to issue a timely certificate of ownership in accordance with this rule shall not:

- a. void or otherwise affect, in any way, the legality or validity of any transfer of investor tax credits;
- b. prohibit any Louisiana taxpayer from claiming investor tax credits against its Louisiana income tax liability if the investor tax credits are otherwise transferred or claimed in accordance with R.S. 47:6007 and these rules; or
- c. result in any recapture, forfeiture or other disallowance of investor tax credits under R.S. 47:6007(E) or (F) or otherwise.

6. Beginning January 1, 2006, for state-certified productions, expenditures shall be certified no more than twice during the duration of a state-certified production unless the motion picture production company submits a fee of \$250 per additional certification to the Office of Entertainment Industry Development and the Department of Economic Development for the costs of any additional certifications.

C. In the event that an application for initial certification or request for certification of the credits is denied:

1. the department, office and, in the case of infrastructure projects, the division shall promptly provide written notice of such denial to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means;

2. whereupon an application or certification is denied, an applicant may appeal that decision to the administrative law judge in accordance with R.S. 49:992 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industries Development, LR 33:

#### **§1605. Base Investment Calculation**

A. For purposes of R.S. 47:6007 (C)(1), the total base investment of a state-certified production, slate of productions or a state-certified infrastructure project shall be calculated by including all amounts expended in the state constituting base investment if each such investment constituting a base investment is made within the period beginning 12 calendar months before and ending 12 calendar months after the date as of which the state-certified production, slate of productions or state-certified

infrastructure project of the company for which base investment is being calculated was approved as a state-certified production, slate of productions or a state-certified infrastructure project by the office and the department. However, no state-certified production or state-certified infrastructure project expenditure shall be attributed to more than one production or project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industries Development, LR 33:

#### **§1606. Infrastructure Portion of the Investor Tax Credit**

A. For infrastructure projects, the department, office and division may grant investor tax credits for multiple purpose immovable and moveable assets as provided by this Section.

1. As stated in Subsection A of §1601 and with the intent of Act 456 of the 2005 Regular session as expressed in R.S. 6007(D)(1), infrastructure project tax credits are granted to encourage development of a strong industry base for motion picture production. Consistent with this intent and purpose, the office and the department may grant tax credits for expenditures on assets that are not unique to the production of motion pictures. They may also grant tax credits for assets that are moveable. However, for any applicant requesting approval as a state-certified infrastructure project that includes either multiple purpose assets or moveable assets, the certification shall include and shall state terms and conditions as provided by Paragraphs 2 and 3 of this Subsection.

2. The department, office and division may determine that real property or fixed assets having uses other than supporting a state of the art production facility may be a necessary component of a state-certified infrastructure project. In instances where applications include such multiple purpose real property or other fixed assets, the department, office and division shall require the applicant to provide assurances that such assets will exclusively support the approved film infrastructure project and that the applicant will not divert the use of the assets to purposes that do not promote or provide for the productions within the state of Louisiana. Such assurances shall be secured by appropriate agreements, including, but not limited to, a requirement of approval prior to sale of such assets; a requirement for a minimum number of years before such assets may be transferred to a different owner; limitations on transferability of the tax credits for current or future holders, a reserve fund that may be re-captured by the state; or a structured release of tax credits.

3. The department, office and division may require assurances of the applicant for a state-certified infrastructure project that moveable assets shall remain in Louisiana and be used in the production of motion pictures or other visual media productions within the state of Louisiana for not less than 80 percent of the asset's useful life. Such assurances shall be secured by appropriate agreements, including, but not limited to, a requirement of approval prior to sale of such assets; a requirement for a minimum number of years before such assets may be transferred to a different owner; limitations on transferability of the tax credits for current or future holders, a reserve fund that may be re-captured by the state; or a structured release of tax credits.



4. Any conditions to meet the requirements to this sub-section shall be explicitly stated in the certification issued for the project.

B. For Infrastructure Applications Received Prior to August 1, 2007

1. The applicant shall have 24 months from the date of approval of the rules or January 1, 2008, whichever is earlier, in which to qualify for the 40 percent tax credits earned on expenditures.

2. Tax credits on infrastructure projects shall be considered earned in the year in which expenditures were made, provided that a minimum of 20 percent or \$10,000,000 of the total base investment provided for in the initial certification that is unique to film production infrastructure shall be expended before infrastructure tax credits can be earned on expenditures.

3. The payment of tax credits may extend beyond or be made after the year expenditures are made.

C. For applications received after August 1, 2007, and before January 1, 2009:

1. the tax credit shall be equal to 40 percent of the base investment expended in this state on such project which is in excess of \$300,000;

2. the total tax credit allowed for any state-certified infrastructure project shall not exceed \$25,000,000;

3. the tax credit shall be earned and may be structured as provided for below:

a. an infrastructure project shall be approved if it is a film, video, television, or digital production or postproduction facility;

b. if all or portion of an infrastructure project is a facility which may be used for other purposes unrelated to production or postproduction activities, then the project shall be approved only if a determination is made that the multiple-use facility will support and will be necessary to secure production or postproduction activity for the production and postproduction facility and the applicant provides sufficient contractual assurances that:

i. the facility will be used as a production or postproduction facility, or as a support and component thereof, for the useful life of the facility;

ii. no tax credits shall be earned on such multiple-use facilities until the production or postproduction facility is complete;

c. tax credits for infrastructure projects shall be earned as follows:

i. construction of the infrastructure project shall begin within six months of the initial certification;

ii. expenditures shall be certified by the department, office and division and credits are not earned until such certification;

iii. twenty-five percent of the total base investment provided for in the initial certification of an infrastructure project shall be certified as expended before any credits may be earned;

iv. no tax credit shall be allowed for expenditures made for any infrastructure project after December 31, 2008, unless 50 percent of the total base investment provided for in the initial certification of the project has been expended prior to that date. The expenditures may be finally certified at a later date;

v. for purposes of allowing tax credits against state income tax liability and transferability of the tax credits, the tax credits shall be deemed earned at the time expenditures are made, provided that all requirements of this Subsection have been met and after the tax credits have been certified;

d. the department, office and division may require the tax credits to be taken and/or transferred in the period in which the credit is earned or may structure the tax credit in the initial certification of the project to provide that only a portion of the tax credit be taken over the course of two or more tax years;

e. the credit shall be allowed against the income tax for the taxable period in which the credit is earned or for the taxable period in which initial certification authorizes the credit to be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industries Development, LR 33:

#### **§1607. Payroll Portion of the Investor Tax Credit**

A. To the extent base investment is expended on payroll for Louisiana residents employed in connection with a state-certified production, each investor shall be allowed an additional tax credit of 10 percent of such payroll. However, if the payroll to any one person exceeds \$1,000,000, this additional credit shall exclude any salary for that person that exceeds \$1,000,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industries Development, LR 33:

Sherri McConnell  
Director

0707#061

### **POTPOURRI**

#### **Department of Environmental Quality Office of the Secretary Legal Affairs Division**

#### **2002 Base Year Emissions Inventory for the Baton Rouge 8-Hour Ozone Nonattainment Area**

Under the authority of the Louisiana Environmental Quality Act, R. S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Assessment, Air Quality Assessment Division, is proposing the 2002 Base Year Emissions Inventory for the Baton Rouge 8-hour ozone nonattainment area. The 5-parish Baton Rouge Nonattainment Area consists of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge Parishes. The 2002 Base Year Inventory was originally proposed in the April 20, 2006, issue of the *Louisiana Register* on page 720. Comments were received and substantive changes have been made to the inventory in response to comments. This revision to the State Implementation Plan (SIP) is mandated under Section

110(a)(2)(F) and 172(c)(3) of the 1990 Clean Air Act Amendments (CAAA).

The Environmental Protection Agency has identified 2002 as the emission inventory base year for the 8-hour ozone SIP planning process. The proposed inventory includes emission estimates from stationary point and nonpoint sources, onroad mobile sources, and nonroad mobile sources.

A public hearing will be held on August 28, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA. Interested persons are invited to attend and present oral comments on the proposal. Should individuals with a disability need an accommodation in order to participate, contact Vivian H. Aucoin at the address given below or at (225) 219-3575. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments concerning the SIP revision no later than 4:30 p.m., September 4, 2007, to Vivian H. Aucoin, Office of Environmental Assessment, Box 4314, Baton Rouge, LA 70821-4314 or to FAX (225) 219-3240 or by e-mail to vivian.aucoin@la.gov.

A copy of the document may be viewed from 8 a.m. to 4:30 p.m. in the DEQ Public Records Center, Room 127, 602 N. Fifth Street, Baton Rouge, LA., or at <http://www.deq.louisiana.gov/portal/Default.aspx?tabid=2381>.

Herman Robinson, CPM  
Executive Counsel

0707#043

**POTPOURRI**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**Fall/Winter Examination Dates**

The Louisiana Board of Veterinary Medicine will administer the State Board Examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e. holiday, weather).

The board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the National Board of Veterinary Medical Examiners (NBVME), formerly the National Board Examination Committee (NBEC), as follows:

Test Window Date	Deadline to Apply
November 12 through December 8, 2007	Friday, August 10, 2007

The board will also accept applications for and administer the Veterinary Technician National Examination (VTNE) for state registration of veterinary technicians as follows:

Test Date	Deadline to Apply
Friday, January 18, 2008	Friday, December 7, 2007

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 263 Third Street, Suite 104, Baton Rouge, LA 70801 and by request via telephone at (225) 342-2176 or by e-mail at lbvm@eatel.net; application forms and information are also available on the website at [www.lsbvm.org](http://www.lsbvm.org).

Wendy D. Parrish  
Administrative Director

0707#001

**POTPOURRI**

**Department of Natural Resources  
Office of Conservation**

**Orphaned Oilfield Sites**

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Anderson Exploration Co., Inc.	Crab Lake	L	Estate of M. O. Miller MD	1	207080
Anderson Exploration Co., Inc.	Crab Lake	L	Estate of M. O. Miller MD	2	208011
Anderson Exploration Co., Inc.	Crab Lake	L	Estate of M. O. Miller MD	1-D	208598
Anderson Exploration Co., Inc.	Crab Lake	L	Estate of M. O. Miller MD	2-D	208599
Anderson Exploration Co., Inc.	Crab Lake	L	M. O. Miller MD SWD	1	972850
Anderson Exploration Co., Inc.	Grand Cheniere, South	L	Estate of M. O. Miller MD	2	227317
Anderson Exploration Co., Inc.	Leleux	L	Ada Duhon	1	234589
Anderson Exploration Co., Inc.	Thornwell, South	L	G A Lyon	1	213688
Anderson Exploration Co., Inc.	Thornwell, South	L	G A Lyon	1-D	215064
Anderson Exploration Co., Inc.	Thornwell, South	L	Gilbert A. Lyon Jr Etal	1	220361
Anderson Exploration Co., Inc.	Thornwell, South	L	G. A. Lyon	2	225463
Aspen	Avery	L	SD 1 RC	1	228589

Operator	Field	District	Well Name	Well Number	Serial Number
Exploration Inc.	Island, S E		SUA;Iberia Investments		
Troy E. Boyd	Converse	S	Paul A	1	178059
Howard's Well Service	Bayou Mallet, South	L	4400 RA SUA; A. H. Frey	10-ALT	178565
Howard's Well Service	Bayou Mallet, South	L	A. Harry Frey	11	197359
Howard's Well Service	Eunice	L	Winston Frey	3	172667
Lincoln Oil Co. of Texas	Wildcat-No. La. Shreveport Dist.	S	Hollingsworth	2	2777
S. W. Richardson	Wildcat-No. La. Monroe Dist.	M	Madison Oil & Dev. Co.	B-1	31123
Ch. Tuttle, etal	Wildcat-No. La. Shreveport Dist.	S	Tuttle	3	16137

James H. Welsh  
Commissioner

0707#035

**POTPOURRI**  
**Department of Natural Resources**  
**Office of the Secretary**  
**Fishermen's Gear Compensation Fund**

In accordance with the provisions of R.S. 56:700.1 et. seq., notice is given that 3 claims in the amount of \$13,950.27 were received for payment during the period June 1, 2007 - June 30, 2007.

There were 3 claims paid and 0 claims denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2908.976	9045.181	Terrebonne
2917.715	8952.639	Jefferson
2933.980	9231.547	Vermilion

A list of claimants and amounts paid can be obtained from Marjorie McClinton, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225)342-0122.

Scott A. Angelle  
Secretary

0707#023

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MCO

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PPO

Lifetime maximum prescription drug benefit, 5ER, 134N, 560N, 644R, 1122R

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